

VETERANS, WOMEN, FAMILIES WITH CHILDREN, AND  
PERSONS WITH DISABILITIES HOUSING FAIRNESS ACT  
OF 2010

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DECEMBER 9, 2010.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. FRANK of Massachusetts, from the Committee on Financial  
Services, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 476]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 476) to authorize funds to prevent housing discrimination through the use of nationwide testing, to increase funds for the Fair Housing Initiatives Program, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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## AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans, Women, Families with Children, and Persons With Disabilities Housing Fairness Act of 2010”.

### SEC. 2. TESTING FOR DISCRIMINATION.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a nationwide program of testing to—

(1) detect and document differences in the treatment of persons seeking to rent or purchase housing or obtain or refinance a home mortgage loan, and measure patterns of adverse treatment because of the race, color, religion, sex, familial status, disability status, or national origin of a renter, home buyer, or borrower; and

(2) measure the prevalence of such discriminatory practices across the housing and mortgage lending markets as a whole.

(b) ADMINISTRATION.—The Secretary of Housing and Urban Development shall enter into agreements with qualified fair housing enforcement organizations, as such organizations are defined under subsection (h) of section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a(h)), for the purpose of conducting the testing required under subsection (a).

(c) PROGRAM REQUIREMENTS.—The Secretary shall—

(1) submit to the Congress an evaluation by the Secretary of the effectiveness of the program under this section; and

(2) issue regulations that require each application for the program under this section to contain—

(A) a description of the assisted activities proposed to be undertaken by the applicant;

(B) a description of the experience of the applicant in formulating or carrying out programs to carry out the activities described in subsection (a); and

(C) a description of proposed procedures to be used by the applicant for evaluating the results of the activities proposed to be carried out under the program.

(d) REPORT.—The Secretary of Housing and Urban Development shall report to Congress—

(1) on a biennial basis, the aggregate outcomes of testing required under subsection (a) along with any recommendations or proposals for legislative or administrative action to address any issues raised by such testing; and

(2) on an annual basis, a detailed summary of the messages received by the Office of Fair Housing and Equal Opportunity of the Department through its 24-hour toll-free telephone hotline, through electronic mail, and through its website.

The Secretary may submit the reports required under paragraph (1) of this subsection as part of the reports prepared in accordance with paragraphs (2) and (6) of section 808(e) of the Fair Housing Act (42 U.S.C. 3608(e)) and section 561(j) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a(j)).

(e) USE OF RESULTS.—The results of any testing required under subsection (a) may be used as the basis for the Secretary, or any Federal agency authorized to bring such an enforcement action, or any State or local government or agency, public or private nonprofit organization or institution, or other public or private entity that the Secretary has entered into a contract or cooperative agreement with under section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a) to commence, undertake, or pursue any investigation or enforcement action to remedy any discriminatory housing practice (as such term is defined in section 802 of the Fair Housing Act (42 U.S.C. 3602)) uncovered as a result of such testing.

(f) DEFINITIONS.—As used in this section:

(1) **DISABILITY STATUS.**—The term “disability status” has the same meaning given the term “handicap” in section 802 of the Civil Rights Act of 1968 (42 U.S.C. 3602).

(2) **FAMILIAL STATUS.**—The term “familial status” has the same meaning given that term in section 802 of the Civil Rights Act of 1968 (42 U.S.C. 3602).

(g) **RELATIONSHIP TO OTHER LAWS.**—Nothing in this section may be construed to amend, alter, or affect any provision of criminal law or the Truth in Lending Act (15 U.S.C. 1601 et seq.).

(h) **REGULATIONS.**—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue regulations that establish minimum standards for the training of testers of organizations conducting testing required under subsection (a). Such regulations shall serve as the basis of an evaluation of such testers, which shall be developed by the Secretary, and such regulations shall be issued after notice and an opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out the provisions of this section \$15,000,000 for each of fiscal years 2011 through 2015.

**SEC. 3. INCREASE IN FUNDING FOR THE FAIR HOUSING INITIATIVES PROGRAM.**

(a) **IN GENERAL.**—Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting “qualified” before “private nonprofit fair housing enforcement organizations,”; and

(B) in paragraph (2), by inserting “qualified” before “private nonprofit fair housing enforcement organizations,”;

(2) by striking subsection (g) and inserting the following:

“(g) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—There are authorized to be appropriated to carry out the provisions of this section \$42,500,000 for each of fiscal years 2011 through 2015, of which—

“(A) not less than 75 percent of such amounts shall be for private enforcement initiatives authorized under subsection (b);

“(B) not more than 10 percent of such amounts shall be for education and outreach programs under subsection (d); and

“(C) any remaining amounts shall be used for program activities authorized under this section.

“(2) **AVAILABILITY.**—Any amount appropriated under this section shall remain available until expended to carry out the provisions of this section.”;

(3) in subsection (h), in the matter following subparagraph (C), by inserting “and meets the criteria described in subparagraphs (A) and (C)” after “subparagraph (B)”; and

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (C), by striking “and” at the end;

(ii) in subparagraph (D), by striking the period and inserting “; and”;

and

(iii) by adding after subparagraph (D) the following new subparagraph:

“(E) websites and other media outlets.”;

(B) in paragraph (2), by striking “or other public or private entities” and inserting “or other public or private nonprofit entities”; and

(C) in paragraph (3), by striking “or other public or private entities” and inserting “or other public or private nonprofit entities”.

(b) **REGULATIONS.**—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue regulations that establish minimum standards for the training of testers of organizations funded with any amounts made available to carry out this section for any of fiscal years 2011 through 2015. Such regulations shall serve as the basis of an evaluation of such testers, which shall be developed by the Secretary, and shall be issued after notice and an opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

**SEC. 4. SENSE OF CONGRESS.**

It is the sense of Congress that the Secretary of Housing and Urban Development should—

- (1) fully comply with the requirements of section 561(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a(d)) to establish, design, and maintain a national education and outreach program to provide a centralized, coordinated effort for the development and dissemination of the fair housing rights of individuals who seek to rent, purchase, sell, or facilitate the sale of a home;
- (2) expend for such education and outreach programs all amounts appropriated for such programs;
- (3) promulgate regulations regarding the fair housing obligations of each recipient of Federal housing and community development funds to affirmatively further fair housing, as that term is defined under title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.); and
- (4) fully comply with the requirements of section 810(a) of the Fair Housing Act (42 U.S.C. 3610(a)).

**SEC. 5. GRANTS TO PRIVATE ENTITIES TO STUDY HOUSING DISCRIMINATION.**

(a) GRANT PROGRAM.—The Secretary of Housing and Urban Development shall carry out a competitive matching grant program to assist public and private nonprofit organizations in—

- (1) conducting comprehensive studies that examine—
  - (A) the causes of housing discrimination and segregation;
  - (B) the effects of housing discrimination and segregation on education, poverty, and economic development; or
  - (C) the incidences, causes, and effects of housing discrimination and segregation on veterans and military personnel; and
- (2) implementing pilot projects that test solutions that will help prevent or alleviate housing discrimination and segregation.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a public or private nonprofit organization shall—

- (1) submit an application to the Secretary of Housing and Urban Development, containing such information as the Secretary shall require;
- (2) agree to provide matching non-Federal funds for 50 percent of the total amount of the grant, which matching funds may include items donated on an in-kind contribution basis; and
- (3) meet the requirements of a qualified fair housing enforcement organization, as such term is defined in section 561(h) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a(h)), or subcontract with a qualified fair housing enforcement organization as a primary subcontractor.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress on a biennial basis that provides a detailed summary of the results of the comprehensive studies and pilot projects carried out under subsection (a), together with any recommendations or proposals for legislative or administrative actions to address any issues raised by such studies. The Secretary may submit the reports required under this subsection as part of the reports prepared in accordance with paragraphs (2) and (6) of section 808(e) of the Fair Housing Act (42 U.S.C. 10 3608(e)) and section 561(j) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616a(j)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section \$5,000,000 for each of fiscal years 2011 through 2015.

**SEC. 6. LIMITATION ON USE OF FUNDS.**

None of the funds made available under this Act, or the amendments made by this Act, may be used for any political activities, political advocacy, or lobbying (as such terms are defined by Circular A-122 of the Office of Management and Budget, entitled “Cost Principles for Non-Profit Organizations”), or for expenses for travel to engage in political activities or preparation of or provision of advice on tax returns.

**PURPOSE AND SUMMARY**

H.R. 476 is intended to strengthen enforcement of federal fair housing laws as well as improve education efforts surrounding discrimination in home rentals, sales, insurance, and lending. Specifically, the bill would authorize a nationwide fair housing enforcement testing program, increase the authorization level for the De-

partment of Housing and Urban Development's (HUD) Fair Housing Initiatives Program (FHIP), and establish a competitive matching grant program at HUD for private nonprofit organizations to examine the causes of housing discrimination and segregation and its effects on education, poverty, and economic development.

#### BACKGROUND AND NEED FOR LEGISLATION

The federal Fair Housing Act (FHA) was enacted in April 1968 in response to the assassination of Dr. Martin Luther King "to provide, within constitutional limitations, for fair housing throughout the United States." The Act, which applies to all types of public and private housing, including single family homes, apartments, condominiums, mobile homes, and others, originally prohibited discrimination on the basis of "race, color, religion, or national origin" in the sale or rental of housing, the financing of housing, or the provision of brokerage services. In 1974, the Act was amended to add sex discrimination to the list of prohibited activities. Similarly, in 1988 the Act was amended to prohibit discrimination on the additional grounds of physical and mental handicap, as well as familial status. The 1988 amendments also provided HUD and the Department of Justice (DOJ) with the authority to initiate complaint proceedings and impose additional remedies. The Act also was extended to cover "residential real estate-related transactions," which include both the "making [and] purchasing of loans . . . secured by residential real estate [and] the selling, brokering, or appraising of residential real property." Thus, the provisions of the FHA extend to the secondary mortgage market.

The FHA may be enforced in varying ways by HUD, the Attorney General, and victims of discrimination. While HUD has primary enforcement through agency adjudication, the DOJ and aggrieved individuals may also bring actions in federal courts under certain circumstances. The Office of Fair Housing and Equal Opportunity (FHEO) within HUD is responsible for investigating both individual and systemic complaints of lending discrimination. FHEO also undertakes Secretary-initiated investigations based on Home Mortgage Disclosure Act data or other information that suggests that a lender may have discriminated on a prohibited basis. In addition, FHEO also carries out activities to educate the public about lending discrimination. In 2009, the Patricia Roberts Harris National Fair Housing Training Academy began its Fair Lending Initiative to combat the effects of the mortgage lending crisis. This effort was strengthened by an additional appropriation provided by Congress in FY 2009, which enabled FHEO to establish a \$2 million mortgage rescue component within the Fair Housing Initiative Program for nonprofit groups assisting victims of fraud and lending abuse.

Despite some progress made by HUD, DOJ, and others in eradicating housing discrimination, alleged and actual violations of the Act persist. According to testimony by several witnesses before the Housing and Community Opportunity Subcommittee, African Americans still experience the highest degree of residential segregation. One witness commented that 65 percent of the African American population would have to move in order to become fully integrated into a metropolitan area. Furthermore, according to testimony by John Trasviña, Assistant Secretary for Fair Housing and

Equal Opportunity (FHEO), racial and ethnic minorities continue to be subject to different treatment when securing a mortgage. Assistant Secretary Trasviña stated that approximately five percent of the housing discrimination cases that are filed each year with the Department and its State and local fair housing agency partners in the Fair Housing Assistance Program (FHAP) involve lending discrimination while thirty percent of these cases have resulted in a determination of “cause to believe discrimination occurred,” a settlement, or a conciliation. His testimony noted that these cases resulted in over \$2 million in monetary compensation or assistance to complainants and policy changes.

HUD’s most recent Housing Discrimination Study, which was conducted by the Urban Institute, found high rates of housing discrimination nationwide in the rental and sale of housing. The study found discrimination in 20.3 percent of cases in which an African American tried to rent an apartment and in 16.8 percent of cases in which an African American attempted to purchase a home. For Hispanics, the numbers were even higher; discrimination was found in 23.4 percent of cases in which they tried to rent an apartment and 18.3 percent in cases where they tried to purchase a home. Those numbers were similar for Asian American and Pacific Islanders as well. HUD’s report found discrimination in 21.5 percent of the time for rentals and 20.4 percent of the time for home purchases.

Independent studies also have reached similar conclusions to those documented in HUD’s Housing Discrimination Study. A recent study by the National Fair Housing Alliance (NFHA) found that 30,758 fair housing complaints were filed in 2008, which is the highest total number of complaints on record. Private fair housing groups processed 20,173, or 66 percent, of the total complaint load. In contrast, HUD processed 2,123 complaints, and state and local fair housing agencies processed 8,429 complaints. The Department of Justice (DOJ) filed 33 fair housing cases. These complaints, however, represent only a small fraction of the actual violations. According to testimony by Shanna Smith, Executive Director and Chief Executive Office of NFHA, an estimated 4 million fair housing violations occur each year. Ms. Smith noted that one reason that so few victims file housing discrimination complaints each year is that the discrimination is so subtle as to be undetectable by most individuals. Another reason cited by Ms. Smith is that private fair housing groups that conduct the majority of fair housing enforcement work nationwide historically have lacked the funding needed to operate at a capacity that can adequately address the high level of housing discrimination.

While the FHA was enacted more than 40 years ago, the Committee notes that numerous studies and witnesses acknowledged that housing discrimination continues. To more effectively address this problem, the bill proposes to strengthen enforcement of the nation’s fair housing laws by expanding testing for housing discrimination, increasing the authorization for HUD’s Fair Housing Initiative Program, establishing a competitive matching grant program at HUD to examine the causes of housing discrimination and segregation and their effects on education, poverty, and economic development, and encourage HUD to issue new regulations in connection with its mandate to affirmatively further fair housing.

## TESTING FOR HOUSING DISCRIMINATION

Detecting housing discrimination is usually done by what is called “paired testing”. Paired testing uses two testers. These testers pose as identical home seekers except for the trait being discriminated against and visit real estate or rental agents to inquire about the availability of advertised housing units. Most paired testing uses paired minority and white applicants testing for racial and/or ethnic discrimination, but paired testing can be done using testers posing as applicants of different sexes, religions, familial status, or disability status if discrimination based on those traits is being tested. This methodology provides direct evidence of possible discrimination in rental, purchase, or mortgage markets.

Fair housing organizations, federal, state and local governments, researchers and academics, and the housing industry use testing evidence to identify disparate treatment in the housing market. In testimony before the Housing and Community Opportunity Subcommittee, Assistant Secretary Trasviña expressed the Department’s support for expansion of testing, noting that testing has been widely accepted by federal courts. Indeed, the U.S. Supreme Court recognized the use of testers as a legitimate and vital enforcement tool in its 1982 decision in *Realty Corp. v. Coleman* (455 U.S. 363, 373 (1982)) in which it granted standing to testers to sue for injuries under the federal Fair Housing Act. Writing for the Court, Justice Brennan described testers as “individuals who, without an intent to rent or purchase a home or apartment, pose as renters or purchasers for the purpose of collecting evidence of unlawful steering practices.” Assistant Secretary Trasviña and several other witnesses who testified before the Housing and Community Opportunity Subcommittee commented that the U.S. Court of Appeals for the Seventh Circuit expressed support for testing as a tool for proving unlawful housing discrimination in *Richards v. Howard*, 712 F.2d 319, 321 (7th Cir. 1983) finding that “[i]t is frequently difficult to develop proof in discrimination cases and the evidence provided by testers is frequently valuable, if not indispensable.” Indeed, Assistant Secretary Trasviña testified that testing proved to be indispensable in a number of the Department’s investigations that led to charges of discrimination based on familial and racial status. In one case, FHEO utilized on-site and telephone tests in Pennsylvania to uncover a prohibited discriminatory practice against families, while in another case, FHEO sent testers to a property following a number of individual complaints by African American renters who sought to live in a 64-unit townhouse property in Ohio. Other witnesses testified that targeted testing of housing service providers has changed the business practices of apartment management companies, real estate agencies, homeowners insurance providers, architects and housing developers and mortgage lenders and insurance providers.

By providing for a nationwide enforcement testing program, H.R. 476 recognizes that testing is a critical tool not only for investigating and redressing housing discrimination but also for systemic enforcement efforts to identify the very types of subtle discrimination that currently go unreported. As one witness testified, such an approach is consistent with the federal government’s long-standing tradition of focusing on eradication of large-scale forms of

discrimination, which otherwise would not likely be redressed by State and local fair housing organizations, civil rights organizations or private individuals because of limited budgets and resources. Knowledge of the nationwide testing program will also serve to promote awareness of the various forms of discriminatory housing practices that are prohibited by the federal Fair Housing Act and, as a result, also serve to deter violations and strengthen compliance.

The Committee recommends that all testing conducted as part of the national testing program should be conducted by private non-profit fair housing organizations with a successful history of bringing enforcement actions and meritorious complaints based on evidence gathered through testing. Fair housing organizations are based in communities and aware of the different market challenges that exist. Regional fair housing coalitions and national consortiums can be effective in coordinating systemic testing for the most direct and sustained impact. To most effectively accomplish the goals of this Act, the Committee recommends that funding be directed to national and regional fair housing organizations with a long history of testing, meritorious complaints and enforcement actions. Such groups subsequently may enter into subcontracts with local groups that have a proven history of testing.

To ensure a sustained effort to eliminate systemic discrimination and undertake this broad effort, the Committee recommends that fair housing organizations receive grants of at least 24 to 36 months. Grantees should not face the 12-month time constraint present in some of the current FHIP funding. Past experience has shown that many FHIP grantees could not rely upon consistent funding from HUD, due in part to insufficient funding for FHIP. Successful systemic testing requires consistent investigation to identify discriminatory practices and policies that exist in particular geographic areas or that exist across geographic areas but are perpetuated by specific persons.

#### FAIR HOUSING INITIATIVES PROGRAM

The Fair Housing Initiatives Program (FHIP) is a program within HUD that assists victims of housing discrimination by connecting them with local fair housing organizations and other non-profits that receive funding through FHIP. These FHIP organizations partner with HUD to help people identify government agencies that handle complaints of housing discrimination. They also conduct preliminary investigations of claims, including sending testers to properties suspected of practicing housing discrimination.

In addition to funding organizations that provide direct assistance to individuals who feel they have been discriminated against while attempting to purchase or rent housing, FHIP has four initiatives that promote fair housing laws and equal housing opportunity awareness, including the:

- Fair Housing Organizations Initiative (FHOI)—provides funding to non-profit fair housing organizations to build capacity and handle fair housing enforcement and education initiatives;
- Private Enforcement Initiative (PEI)—offers testing and enforcement assistance to the nationwide network of fair housing groups.



- Education and Outreach Initiative (EOI)—provides funding to State and local government agencies and non-profit organizations for community outreach initiatives regarding the Fair Housing Act.
- Administrative Enforcement Initiative (AEI)—helps State and local governments who administer laws similar to the Fair Housing Act that broaden an agency’s range of enforcement and compliance activities. No funds are currently available for this program.

FHIP was last authorized by Congress in 1994 at \$26 million. In FY 2009, eligible and qualified fair housing enforcement organizations submitted applications totaling \$75.4 million, which exceeded the amount appropriated by Congress. For FY 2010, FHIP was funded at \$42.5 million in FY 2010, which helped fund 93 fair housing organizations. Despite the increase, there are many states and large metropolitan areas with no fair housing agency. In addition, many fair housing organizations have had to reduce staffing levels or close entirely due to insufficient resources. In fact, the bipartisan National Commission on Fair Housing and Equal Opportunity, co-chaired by former HUD Secretaries Henry Cisneros and Jack Kemp, issued a report on the state of fair housing in which it recommended a significant increase in FHIP funding. In its report, the Commission noted that that “[t]he Fair Housing Initiative Program was created in the late 1980s to support and fund fair housing enforcement and education across the country. While the program has been an effective change agent in communities, severe funding constraints and an erratic funding stream have limited its usefulness. Current appropriation levels are grossly inadequate to fund existing private fair housing groups to perform enforcement activities . . . Only 28 groups in the country received consistent funding over the five-year period from FY 2003 to FY 2007 and 26 private fair housing groups including some of the oldest and most respected groups, have closed or are at risk.”

H.R. 476 begins to address the Commission’s recommendations by increasing the authorization level for FHIP from \$26 million to \$42.5 million, equal to the amount appropriated by Congress in FY 2010. This funding level would help fund most of the existing fair housing organizations and enable them to develop innovative ways to fight emerging discrimination such as systemic testing, in which qualified fair housing organizations incorporate knowledge of emerging negative housing trends into an investigation and develop plans to determine if discrimination is driving this trend. Additional funding also would provide qualified fair housing organizations with the needed resources to follow through on discriminatory housing practices that are uncovered in order to take legal action and pay for litigation costs.

#### AFFIRMATIVELY FURTHER FAIR HOUSING MANDATE

Title VIII of the federal Fair Housing Act (42 U.S.C. § 3608) requires HUD and its grantees to “affirmatively further fair housing.” This mandate applies to all HUD grant programs, including the Community Development Block Grant Program and the HOME Investment Partnership Program, two of HUD’s largest grant programs. A number of witnesses testified that this mandate has often gone unmet. In fact, HUD Assistant Secretary Trasviña and several other witnesses discussed one such case that was brought against Westchester County, New York. In this case, it was alleged

that Westchester County had made false claims to the federal government when it certified that it would affirmatively further fair housing, though it had never analyzed racial segregation patterns in areas where it placed new affordable housing. The Committee commends HUD and the Department of Justice for using its authority to help facilitate an historic and mutually-beneficial settlement to the claims whereby Westchester County has agreed to build 750 new affordable housing units in neighborhoods with small minority populations, remove existing impediments to fair and affordable housing and take active steps to ensure its housing and development practices are fair to families without regard to their race or ethnicity.

Finally, while the Committee recognizes that HUD is in the process of revising its current regulations regarding the obligation of recipients of federal funds to affirmatively further fair housing, it notes that Section 5 of the bill restates Congress intent in having this mandate fully implemented and enforced.

#### HEARINGS

The Subcommittee on Housing and Community Opportunity held a hearing on January 20, 2010, entitled, "H.R. 476, the Housing Fairness Act of 2009." The following witnesses testified:

##### PANEL ONE

- The Honorable John Trasviña, Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development

##### PANEL TWO

- Ms. Shanna L. Smith, President and Chief Executive Officer, National Fair Housing Alliance/Co-Chair of the Leadership Conference on Civil Rights Fair Housing Task Force
  - Ms. Leslie Proll, Director, NAACP Legal Defense & Educational Fund, Inc./Co-Chair of the Leadership Conference on Civil Rights Fair Housing Task Force
  - Mr. David Berenbaum, Chief Program Officer, National Community Reinvestment Coalition
  - Ms. Jeanne McGlynn Delgado, Vice President, Business and Risk Management Policy, National Multi-Housing Council/National Apartment Association
  - Professor Brian Gilmore, Director, Fair Housing Clinic, Howard University School of Law

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 28, 2010, and ordered H.R. 476, Veterans, Women, Families with Children, and Persons with Disabilities Housing Fairness Act of 2010, as amended, favorably reported to the House by a voice vote. Earlier, the Subcommittee on Housing and Community Opportunity marked up the bill on May 27, 2010, and ordered the bill, as amended, forwarded to the Full Committee by a voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote.

During the consideration of the bill in Full Committee, the following amendments (to the Committee Print showing the amendment recommended by the Subcommittee on Housing Community Opportunity) were considered:

An amendment by Mr. Lee, no. 1, regarding a General Accountability Office study on testing for discrimination, was offered and withdrawn.

An amendment by Mr. Carson, no. 2, regarding a HUD report on studies and pilot projects, was agreed to by a voice vote.

During the consideration of the bill in the Subcommittee on Housing and Community Opportunity, the following amendment was considered:

An amendment by Mr. Green, no. 1, a manager's amendment, was agreed to by a voice vote.

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a hearing and made findings that are reflected in this report.

#### PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

#### PURPOSE AND SUMMARY

H.R. 476 is intended to strengthen enforcement of federal fair housing laws as well as improve education efforts surrounding discrimination in home rentals, sales, insurance, and lending by authorizing a nationwide fair housing enforcement testing program, increasing the authorization level for the Fair Housing Initiatives Program, and establishing a competitive matching grant program at HUD for private nonprofit organizations to examine the causes of housing discrimination and segregation and its effects on education, poverty, and economic development.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, August 10, 2010.*

Hon. BARNEY FRANK,  
*Chairman, Committee on Financial Services,  
 House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 476, the Veterans, Women, Families with Children, and Persons With Disabilities Housing Fairness Act of 2010.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

ROBERT A. SUNSHINE  
 (For Douglas W. Elmendorf, Director).

Enclosure.

*H.R. 476—Veterans, Women, Families with Children, and Persons With Disabilities Housing Fairness Act of 2010*

Summary: H.R. 476 would authorize the appropriation of about \$255 million over the 2011–2015 period for Department of Housing and Urban Development programs to study, detect, and prevent discriminatory housing practices. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$214 million over the 2011–2015 period. Enacting the legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 476 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 476 is shown in the following table. CBO assumes that the amounts authorized will be appropriated by the start of each fiscal year and that outlays will follow the historical rate of spending for the authorized programs or for similar activities. The costs of this legislation fall within budget function 750 (administration of justice).

	By fiscal year, in millions of dollars—					2011–2015
	2011	2012	2013	2014	2015	
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level .....	63	48	48	48	48	255
Estimated Outlays .....	26	42	50	48	48	214

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 476 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal governments would benefit from grant funds authorized in the bill. Any costs they incur, including matching funds, would result from complying with conditions of federal assistance.

Estimate prepared by: Federal Costs: Mark Grabowicz; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Jimmy Jin.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### EARMARK IDENTIFICATION

H.R. 476 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This section establishes the short title of the bill, the “Veterans, Women, Families with Children, and Persons with Disabilities Housing Fairness Act of 2010.”

##### *Section 2. Testing for discrimination*

This section authorizes the U.S. Department of Housing and Urban Development (HUD) to administer a nationwide enforcement testing program to measure patterns of adverse treatment on the basis of race, color, religion, sex, familial status, disability or

national origin in rentals, real estate sales and mortgage lending practices. Qualified fair housing enforcement organizations will conduct the testing. HUD, State and local governments, and fair housing organizations may investigate or bring enforcement actions when housing discrimination is found. HUD will submit to Congress an evaluation of the effectiveness of the program and issue regulations requiring applicants to describe the proposed activities and procedures to be used as well as regulations establishing minimum standards for the training of testers. HUD will report to Congress, on a biennial basis, the results of its nationwide enforcement testing, including recommendations for legislative or administrative actions. In its biennial updates to Congress, HUD will also provide a detailed summary of the messages received by the 24-hour toll-free hotline, through electronic mail, and through its website, for reported housing discrimination. This program is authorized for \$15 million for FY 2011–FY 2015.

*Section 3. Increase in funding for the Fair Housing Initiatives Program*

This section amends the Fair Housing Initiative Program (FHIP), which was authorized as part of the Housing and Community Development Act of 1987, by stipulating that only “qualified private nonprofit fair housing enforcement organizations” receive funds under the private enforcement initiative. Qualified fair housing organizations are required to have at least two years’ experience in complaint intake, complaint investigation, testing for fair housing violations, and enforcement of meritorious claims. Under this section, HUD is also required to issue regulations within 180 days of bill enactment establishing minimum standards for the training of testers.

This section authorizes \$42.5 million annually for FHIP from FY 2011 to FY 2015, to be divided as follows:

- No less than 75 percent of total funding for private enforcement; and
- No more than 10 percent of total funding for education and outreach.

*Section 4. Sense of Congress*

This section states that HUD should fully comply with FHIP authorizing language to develop and disseminate an annual national media campaign to educate the general public of fair housing rights, including public service announcements, television, radio and print advertisements, posters, pamphlets and brochures. It also states that HUD should promulgate regulations regarding the obligation to affirmatively further fair housing for all recipients of federal housing funds as required by federal Fair Housing Act (42 U.S.C. 3608).

*Section 5. Grants to private entities to study housing discrimination*

This section requires HUD to administer a competitive matching grant program for private nonprofit organizations to examine the causes of housing discrimination and segregation and their effects on education, poverty and economic development. This section also expands the scope of research to include a study on the extent of housing discrimination against veterans and military personnel,

the causes of such discrimination, and its effects. A non-federal fund match of 50 percent of the grant amount is required. Qualified fair housing enforcement organizations or their primary subcontractor are given a priority in grant selection. This section authorizes \$5 million for the competitive grant program annually from FY 2011 to FY 2015 for this program.

This section also directs HUD to submit a report to Congress, on a biennial basis, that provides a detailed summary of the results of the comprehensive studies and pilot projects authorized by this Act, as well as specifying any recommendations for legislative or administrative actions to address any issues raised by the studies.

*Section 6. Limitation on use of funds*

This section prohibits funds authorized under this Act from being used for any political activity, political advocacy, or lobbying, or for expenses for travel to engage in such activities or in preparing or providing advice on tax returns.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**SECTION 561 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1987**

**SEC. 561. FAIR HOUSING INITIATIVES PROGRAM.**

(a) \* \* \*

(b) PRIVATE ENFORCEMENT INITIATIVES.—

(1) IN GENERAL.—The Secretary shall use funds made available under this subsection to conduct, through contracts with *qualified* private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968, and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

(2) ACTIVITIES.—The Secretary shall use funds made available under this subsection to conduct, through contracts with *qualified* private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

(A) \* \* \*

\* \* \* \* \*

(d) EDUCATION AND OUTREACH.—

(1) IN GENERAL.—The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, shall establish a national education and outreach program. The national program

shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

(A) \* \* \*

\* \* \* \* \*

(C) posters; [and]

(D) pamphlets and brochures[.]; and

(E) websites and other media outlets.

\* \* \* \* \*

(2) REGIONAL AND LOCAL PROGRAMS.—The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act, [or other public or private entities] or other public or private nonprofit entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

(3) COMMUNITY-BASED PROGRAMS.—The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, [or other public or private entities] or other public or private nonprofit entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.

\* \* \* \* \*

[(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section, \$21,000,000 for fiscal year 1993 and \$26,000,000 for fiscal year 1994, of which—

[(1) not less than \$3,820,000 for fiscal year 1993 and \$8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b), divided equally between activities specified under subsection (b)(1) and those specified under subsection (b)(2);

[(2) not less than \$2,230,000 for fiscal year 1993 and \$8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1);

[(3) not less than \$2,010,000 for fiscal year 1993 and \$4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2); and

[(4) not less than \$2,540,000 for fiscal year 1993 and \$5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d), to be divided equally between activities specified under subsection (d)(1) and those specified under subsections (d)(2) and (d)(3). Any amount



appropriated under this section shall remain available until expended.】

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—*There are authorized to be appropriated to carry out the provisions of this section \$42,500,000 for each of fiscal years 2011 through 2015, of which—*

*(A) not less than 75 percent of such amounts shall be for private enforcement initiatives authorized under subsection (b);*

*(B) not more than 10 percent of such amounts shall be for education and outreach programs under subsection (d); and*

*(C) any remaining amounts shall be used for program activities authorized under this section.*

(2) AVAILABILITY.—*Any amount appropriated under this section shall remain available until expended to carry out the provisions of this section.*

(h) QUALIFIED FAIR HOUSING ENFORCEMENT ORGANIZATION.—(1) The term “qualified fair housing enforcement organization” means any organization that—

(A) \* \* \*

\* \* \* \* \*

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B) and meets the criteria described in subparagraphs (A) and (C).

\* \* \* \* \*

## DISSENTING VIEWS

The Republican Members of the Committee on Financial Services support the goal of fair housing and believe that housing discrimination in any form is unacceptable. However, we continue to be concerned that this bill creates two new programs, is duplicative of other Federal initiatives to combat this type of discrimination, and authorizes over \$100 million in new spending with no offset or indication of the source of funding.

H.R. 476 incorporates some Republican suggestions. For example, it includes provisions that (1) require the Department of Housing and Urban Development (HUD) to issue regulations outlining the standards and procedures for the nationwide testing program; (2) provide accountability and oversight standards governing how funds are spent by Qualified Fair Housing Enforcement Organizations (QFHEO); and (3) prohibit funds available under this act from being used for political activities. While these provisions improve the bill, H.R. 476 fails to address concerns regarding the creation of a costly new program that largely duplicates other Federal initiatives administered by HUD and the Department of Justice (DOJ), and the authorization of \$100 million in new spending at a time when American taxpayers are demanding greater fiscal discipline from their elected representatives.

Currently, the Justice Department operates a fair housing testing program within its Housing and Civil Enforcement Section to identify unlawful housing discrimination based on race, national origin, disability, or familial status. Rather than establishing a new nationwide testing program through HUD, perhaps a better approach would be to have DOJ work in consultation with HUD to conduct housing discrimination testing through the existing DOJ program.

Given the fiscal crisis facing America, it is irresponsible for Congress to authorize spending on new programs without offsetting that spending by eliminating or reducing other Federal programs. Accordingly, we cannot support this very well-intentioned legislation.

SPENCER BACHUS.  
RANDY NEUGEBAUER.  
LEONARD LANCE.  
CHRISTOPHER LEE.  
SHELLEY MOORE CAPITO.  
JEB HENSARLING.  
LYNN JENKINS.

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