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A SUMMARY ABOUT THE POSITIVE EFFECT OF THE LAW PROHIBITING THE SOURCE OF INCOME (SOI) DISCRIMINATION

By Zhiwei Hua



The Housing Choice Voucher Program (HCVP) is a federal program that assists families with very low incomes in finding safe and sanitary housing in the private market.¹ But the program only works if private landlords are willing to accept the subsidies and rent to voucher holders.² Federal law does not prevent landlords from rejecting all housing vouchers.³ Landlords often cite freedom of contract and the “administrative burden” of providing housing to voucher holders as reasons for this rejection.

Fortunately, a growing number of states and localities have enacted laws, known as source of income protection laws, which can increase voucher acceptance among landlords.⁴ A recent U.S. Department of Housing and Urban Development (HUD) study found voucher non-discrimination laws appear to be associated with substantial reductions in the share of landlords that refuse to accept vouchers.⁵ But, the enactment of a federal source of income law would ensure more consistent tenant protections.⁶

The positive effect of voucher non-discrimination laws

In practice, HCVP largely relies on *willing* private landlords that opt to work with housing agencies and voucher holders.⁷ To address the challenge of landlords’ unwillingness to participate and to make the HCVP work more effectively, 11 states, Washington, D.C. and more than 50 cities and counties have enacted laws that prohibit landlords from refusing to rent to voucher holders solely because of their source of income.⁸ Several studies have

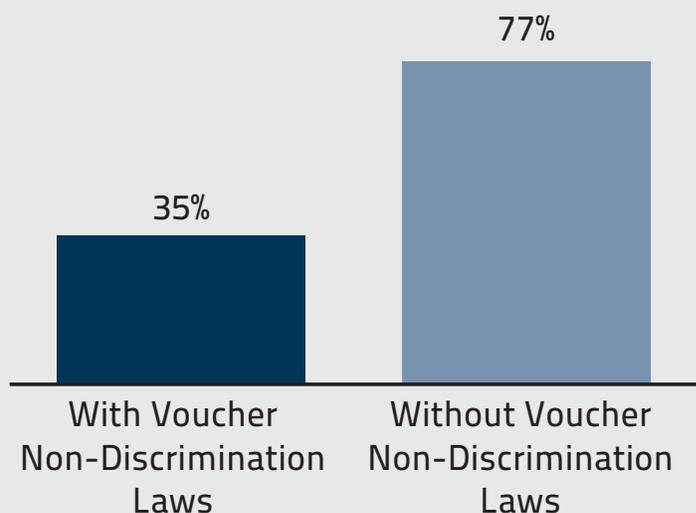
found that voucher holders in areas with voucher non-discrimination protections are more likely to succeed in using their vouchers to lease a unit.⁹

Two interrelated measures are used to help analyze the voucher non-discrimination laws’ effectiveness: utilization rate and success rate. HUD defines “utilization rate” as either the overall percentage of the annual budget authority spent, or the percentage of authorized vouchers leased, whichever is higher.¹⁰ The HCVP’s utilization rate was 99.9% in 2017, which means that nearly all available voucher funds were spent.¹¹ As to the success rate, it is the percent of vouchers issued to families in a year that result in an actual lease with a landlord, and a contract between the voucher holder and the landlord.¹² When HUD last studied voucher success rates in 2000, the national voucher success rate for public housing authorities (PHAs) in metropolitan areas was 69%, which means almost seven out of 10 families who were newly issued vouchers were able to lease

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Fewer Landlords Reject Vouchers in Areas Blocking Voucher Discrimination

Percentage of landlord rejections



Mary Cunningham et al., *A Pilot Study of Landlord Acceptance of Housing Choice Vouchers*, Department of Housing and Urban Development (Sep. 2018)

a unit using their vouchers.¹³ These two measures reflect how the HCVP is executed in a certain area. Additionally, these measures can directly show the effectiveness of voucher non-discrimination laws. Conversely, voucher non-discrimination laws can be an effective way to address landlords' refusal to rent to voucher holders, which can help improve program success and utilization rates.¹⁴

Source of income discrimination and racial discrimination

While discriminating based on source of income (SOI) is legal in some jurisdictions in the United States, those who receive vouchers are disproportionately members of protected classes (race, color, national origin, religion, sex, family status and disability)¹⁵ under the federal Fair Housing Act and similar state laws. This suggests discrimination against HCVP recipients has a disparate impact upon members of a protected class—specifically, upon those who identify as people of color.

For example, the Chicago Lawyers' Committee for Civil Rights Under Law, Inc. (2014), performed 50 matched-pair tests in suburban Cook County, Illinois, where there is an SOI antidiscrimination law. In 32% of the cases, landlords refused to rent to HCVP participants.¹⁶ In addition, 18% of the time, landlords only discriminated against Black—but not white—HCVP participants, which shows the intersectionality of discrimination based on race and SOI.¹⁷ Thus in practice, many disparate impact lawsuits also include SOI discrimination. As a result, these lawsuits have been highly impactful in forcing local governments to adopt laws banning SOI discrimination to reverse housing practices that have a disparate impact upon communities of color.¹⁸

The author has summarized the findings of two articles that show the positive effect of the voucher non-discrimination laws, but from different perspectives. The first article uses the data of the area where the voucher non-discrimination laws have been enacted to show the positive results upon HCVP participants. The second article combines SOI discrimination with racial discrimination to prove that the voucher non-discrimination laws can be good methods to help eliminate the disparate impact SOI discrimination has upon communities of color.

Based upon these articles, the author believes the federal government should enact a federal law to prohibit SOI discrimination to enhance enforcement, and to regulate states that do not have SOI protections for voucher holders, in order to have fair housing in the United States.

1. *Housing Choice Vouchers Fact Sheet*, U.S. Department of Housing and Urban Development https://www.hud.gov/topics/housing_choice_voucher_program_section_8#:~:text=increase%20landlord%20participation%3F-What%20are%20housing%20choice%20vouchers%3F.housing%20in%20the%20private%20market.
2. Bell, Alison, Barbara Sard, Becky Koepnick, *Prohibiting discrimination against renters using housing vouchers improves results*, Center on Budget and Policy Priorities (Dec. 20, 2018), <https://www.cbpp.org/research/housing/prohibiting-discrimination-against-renters-using-housing-vouchers-improves-results>.
3. *Id**1.
4. *Id**1.
5. *Id**1.
6. *Id**1.
7. *Id**1.
8. *Id**2.
9. *Id**4.
10. *Id**5.
11. *Id**5.
12. *Id**6.
13. *Id**6.
14. *Id**7.
15. Tighe, J. Rosie, Megan E. Hatch, Joseph Mead, *Source of income discrimination and fair housing policy*, 32 *Journal of Planning Literature* 3, 6 (2017).
16. *Id**9.
17. *Id**9.
18. *Id**6.