

## Coming HOME

In a long promised effort to update the federal Fair Housing Act (Title VIII) five Congressmen this month introduced the Housing Opportunities Made Equal (HOME) Act. HOME appears to include all of HUD's current priorities for modernizing the federal fair housing laws.

The proposed amendments include several important changes to Title VIII.

First, they add four new protected categories, including (a) gender identity; (b) sexual orientation; (c) marital status; and (d) source of income. For purposes of the amendments "gender identity" is defined as, "gender-related identity, appearance or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth." "Source of income" refers to "the receipt of Federal, State or local public assistance including medical assistance, or the receipt by a tenant or applicant of Federal, State or local housing subsidies, including rental assistance under Section 8 of the United States Housing Act of 1937." The other two categories are defined under their common meanings.

Second, they expand the definition of "familial status discrimination" to include discrimination against anyone standing in loco parentis of an individual who has not yet attained the age of 18 years. The current law only includes a parent, foster parent, or another person having legal or physical custody of a person under the age of 18.

Third, they expand the statute of limitations for filing complaints against properties that fail to comply with the design and construction requirements of the Fair Housing Act. Currently, as the result of lengthy litigation at the Ninth Circuit Court of Appeals (covering Arizona) no one can bring a design and construction complaint against a property more than two years after it has been fully constructed and occupied, even if design elements that are required by the accessibility guidelines have not been met. Under the proposed amendments, complaints can be brought at any time until the dwelling fully complies with those design requirements.

In addition the bill expands the definition of "discriminatory housing practice" to include certain events occurring pre- or post-acquisition (current case law says those events may not be covered by the law today), gives the United States Attorney additional powers to obtain discovery prior to litigation, requires reasonable accommodation for persons with disabilities in connection with "real estate related transactions" and expands the Attorney General's subpoena powers under the Equal Credit Opportunity Act.

Although the bill is still in its very early stages, it substantially includes all of the published priorities of the United States Department of Housing and Urban

Development and is backed by both the administration and numerous national fair housing entities, so it is well worth watching over the next several months.