

When Legislative Solutions Fail: Community Problem Solving Source of Income Discrimination in Iowa

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ABSTRACT: The Housing Choice Voucher Program was developed by the federal government to provide low-income households with alternatives to public housing and to desegregate urban neighborhoods. The program allows low-income households to utilize a federal subsidy in privately owned housing of the household's choosing. However, there is no federal mandate that landlords must rent to recipients of housing vouchers. Some households are turned away simply because their ability to afford the unit depends on the federal subsidy. This practice is called source of income discrimination. Although many states, cities, and counties have made source of income discrimination illegal, the Iowa Legislature passed a law that prohibits cities and counties from protecting their citizens from source of income discrimination. This Note argues that this Iowa law undermines federal housing goals, creates a loophole that landlords can use to illegally discriminate, and takes power away from local government. This Note also argues that legislative remedies, while needed, are unlikely due to political stalemate. Rather, cities in Iowa that want to protect voucher holders from source of income discrimination must employ community organizing and creative solutions.

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INTRODUCTION

There are 20,100 households in Iowa that can afford their rent because of a Housing Choice Voucher (“HCV”).¹ The HCV Program is a federally funded program that allows people in poverty to maintain choice of housing by renting from private landlords and property owners.² Once an HCV is distributed to a low-income family or individual, the household may choose the location and type of unit that best suits their needs.³ Once the household “leases up,” the voucher holder pays about thirty percent of their total household income toward rent, and the federal government covers the rest.⁴

What a program! Indeed, HCVs keep over a million people out of poverty and are extremely effective at decreasing homelessness.⁵ But the program is not living up to its potential. Only one out of four households that qualify for

1. *Iowa Federal Rental Assistance Fact Sheet*, CTR. ON BUDGET & POL’Y PRIORITIES (Jan. 19, 2022), <https://www.cbpp.org/research/federal-rental-assistance-fact-sheets#IA> [<https://perma.cc/ZN4D-8P77>].

2. *Housing Choice Voucher Facts*, U.S. DEP’T HOUS. & URB. DEV. (May 2021), <https://files.hudexchange.info/resources/documents/PIH-HCV-Landlord-Fact-Sheet.pdf> [<https://perma.cc/3PCA-GAHW>].

3. *Id.*

4. *Id.*

5. *Policy Basics: The Housing Choice Voucher Program*, CTR. ON BUDGET & POL’Y PRIORITIES (Sept. 30, 2024), <https://www.cbpp.org/research/housing/the-housing-choice-voucher-program> [<https://perma.cc/75TF-4X55>]; see discussion *infra* Section I.B.

the program end up receiving an HCV.⁶ Other eligible families end up on waitlists that are years long.⁷ Even if a household eventually gets off a waitlist, they face difficulties finding an acceptable unit and a landlord that will accept their voucher.⁸ Landlords cannot pick and choose tenants based on race, color, sex, national origin, family status, or disability because federal law protects tenants from this type of discrimination.⁹ However, no federal law protects households with an HCV from being denied the opportunity to rent simply because they will pay for a unit with the voucher. This practice is called source of income (“SOI”) discrimination.

Many states have adopted ordinances that protect HCV holders from SOI discrimination.¹⁰ Iowa, however, has not protected HCV holders from SOI discrimination, but, before 2021, three cities in Iowa—Marion, Des Moines, and Iowa City—had local ordinances that did what the state and federal governments failed to do and prevented SOI discrimination in their cities. Then in 2021, Iowa adopted a law that *prevents* cities and counties from protecting HCV holders from SOI discrimination.¹¹ This law preempted the ordinances of the three Iowa cities and allowed landlords to automatically disqualify any housing application from an HCV holder because of their method of rent payment.

This Note argues that Iowa’s law barring SOI discrimination protection undermines federal housing goals, creates a loophole for landlords to illegally discriminate based on protected classes like race, and takes the power to remedy these issues away from local government. Part I examines the history of the HCV Program, its history in Iowa, and how Iowa passed its SOI discrimination law. Part II explores the effects of SOI discrimination on Iowa HCV holders and their communities. Part III discusses possible legal remedies and proposes alternative community-based solutions that represent a practical path forward in the face of legislative inaction.

I. HOUSING POLICY, VOUCHERS, AND INCOME DISCRIMINATION

This Part surveys the history of the HCV Program, SOI discrimination, and Iowa’s statute that prohibits cities from making ordinances to protect HCV recipients from SOI. First, it explains how federal housing policy changed over time to produce the HCV Program. Second, it addresses eligibility requirements and barriers to accessing the HCV Program. Third, it analyzes the practical

6. Peggy Bailey, *Priced Out: The State of Housing in America*, CTR. ON BUDGET & POLY PRIORITIES (July 21, 2022), <https://www.cbpp.org/research/housing/priced-out-the-state-of-housing-in-america> [<https://perma.cc/LW2M-D8QN>].

7. See discussion *infra* Section I.B.

8. See discussion *infra* Section I.C.

9. Civil Rights Act of 1968, Pub. L. No. 90-284, tit. VIII, 82 Stat. 73. The amended Fair Housing Act is codified at 42 U.S.C. §§ 3601–3619 (2018).

10. See *infra* Section I.E.

11. IOWA CODE § 331.304(13) (2024); see *infra* Section I.E.

considerations of how HCV participants utilize the subsidy. Fourth, it defines income discrimination and describes its effects. Lastly, it discusses the various responses by state and local entities to SOI discrimination, paying special attention to the Iowa Legislature's unusual response to local ordinances throughout the state.

A. *HISTORY OF FEDERAL HOUSING POLICY*

Over time, federal housing policy shifted from funding housing development projects in urban areas to funding individual households throughout the country. The federal government created its first public housing project through the passage of the National Industrial Recovery Act of 1933, which was meant to boost the economy and promote recovery for those impoverished by the Great Depression.¹² Under this Act, a federal agency called the Federal Emergency Administration of Public Works cleared slums and built housing for low-income residents.¹³ However, reformers objected to strong national control over new construction and called for local control of subsidized housing.¹⁴ They believed that the federal government was not the correct entity to be making local decisions about housing projects and aid would be most effective if it was responsive to the needs of the community.¹⁵ At the time, many major cities had developed or were in the process of developing housing authorities to manage growth and development.¹⁶ With the hopes of empowering local leaders to address the community's needs, progressives lobbied for the federal funds to go to these locally controlled public housing boards.¹⁷ The federal government listened.¹⁸ The Housing Act of 1937 authorized the federal government to give money and subsidize loans to local housing authorities.¹⁹ Over the next thirty years, the federal government greatly

12. John F. McDonald, *Public Housing Construction and the Cities: 1937-1967*, 2011 URB. STUD. RSCH., no. 1, at 4; Rogene A. Bucholz, *National Industrial Recovery Act: United States [1933]*, BRITANNICA (Dec. 3, 2019), <https://www.britannica.com/topic/National-Industrial-Recovery-Act> [<https://perma.cc/5BUN-QAUP>].

13. McDonald, *supra* note 12, at 4.

14. *Id.*; see also D. BRADFORD HUNT, BLUEPRINT FOR DISASTER: THE UNRAVELING OF CHICAGO PUBLIC HOUSING 24-28 (2009) (discussing the political back and forth between different visions of reformers that led the federal government to pass the 1937 Housing Act).

15. McDonald, *supra* note 12, at 4; HUNT *supra* note 14, at 24-28.

16. HUNT, *supra* note 14, at 23-24.

17. *Id.* at 24.

18. See McDonald, *supra* note 12, at 4.

19. See generally U.S. Housing Act of 1937, Pub. L. No. 75-896, 50 Stat. 888 (codified as amended at 42 U.S.C. § 1437); see also HUNT, *supra* note 14, at 23-24 (indicating that the intended effects of the Act included, in part, that local housing authorities and federal officials work together to manage public housing projects—particularly in the form of federal government subsidies); *US Housing Act of 1937, As Amended*, U.S. DEP'T OF HOUS. & URB. DEV., https://www.hud.gov/sites/documents/DOC_10010.PDF [<https://perma.cc/5NBJ-8XYJ>] (authorizing the U.S. Department of Housing and Urban Development ("HUD") Secretary to make grants to facilitate

increased funding for public housing authorities to build new projects and preserve old ones.²⁰

In 1968, the Fair Housing Act (“FHA”) was passed to combat racial discrimination in rental housing that had been previously promoted by the Federal Housing Administration.²¹ Urban areas faced additional financial hurdles to maintaining public housing. Although the federal government gave some funds, cities often struggled to afford necessary updates, resulting in low-quality housing.²² To combat this, the Housing and Community Development Act of 1974 amended the Housing Act of 1937 to create a housing assistance program.²³ Under Section 8 of the newly-amended Act, the federal government disbursed funds to local housing authorities to subsidize public housing for low-income renters.²⁴ This amendment was a turning point in federal housing policy because the federal government shifted their focus from building affordable housing projects to supporting individual households. After Section 8 was passed, the federal government began supporting individual tenants in those affordable units.

In the 1970s, there was a prevailing dissatisfaction surrounding public funding of low-income housing units.²⁵ This dissatisfaction, and the call to desegregate neighborhoods, prompted the U.S. Department of Housing and Urban Development (“HUD”) to create a program where tenants could use their

housing development). The four goals of the Housing Act of 1937 were to “improv[e] the living environment for public housing residents,” “revitaliz[e] sites . . . on which such public housing projects are located,” “provid[e] housing that will avoid or decrease the concentration of very low-income families,” and “build[] sustainable communities.” *Id.*

20. HUD’s *Historical Timeline 1950*, U.S. DEP’T OF HOUS. & URB. DEV., https://www.huduser.gov/hud_timeline [<https://perma.cc/P9M7-BLK7>].

21. *The Fair Housing Act*, C.R. DIV., U.S. DEP’T JUST. (June 22, 2023), <https://www.justice.gov/crt/fair-housing-act-1> [<https://perma.cc/T3X4-4FLU>]. At this time, the Federal Housing Administration, now known as the Office of Housing under HUD, was explicitly endorsing racial segregation in its housing policies. See Terry Gross, *A ‘Forgotten History’ of How the U.S. Government Segregated America*, NPR (May 3, 2017, 12:47 PM), <https://www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america> [<https://perma.cc/RJ6Y-DJT4>]. According to the *Underwriting Manual* of the Federal Housing Administration, neighborhoods should be “protect[ed] from adverse influences” including “inharmonious racial groups.” FED. HOUS. ADMIN., UNDERWRITING MANUAL: UNDERWRITING AND VALUATION PROCEDURE UNDER TITLE II OF THE NATIONAL HOUSING ACT ¶ 935 (1938). These segregationist policies were just one of the many federal policies, that further entrenched racial segregation in the neighborhoods of many urban cities. See, e.g., Gross, *supra*; Charles L. Nier III, *Perpetuation of Segregation: Toward a New Historical and Legal Interpretation of Redlining Under the Fair Housing Act*, 32 J. MARSHALL L. REV. 617, 664–65 (1999). See generally Richard Rothstein, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017) (positing that housing policies at every level of government were explicitly segregationist).

22. HUNT, *supra* note 14, at 208.

23. Housing and Community Development Act of 1974, 42 U.S.C. § 1437f; S. 3066, 93d Cong. (1974).

24. 42 U.S.C. § 1437f.

25. HUNT, *supra* note 14, at 206–07.

federal government subsidy for units owned by private landlords.²⁶ Thus, the HCV Program was created to allow low-income tenants to choose their neighborhood and unit.²⁷ The program sought to help people in poverty gain and maintain “decent, safe, and sanitary housing in the private market.”²⁸

B. HOUSING CHOICE VOUCHER PROGRAM TODAY

To get an HCV today, a person must apply through their local public housing agency (“PHA”). PHAs are county- or city-level agencies that manage affordable housing by determining eligibility and implementing the HCV Program. To be awarded a voucher from a PHA, a household’s income must be lower than fifty percent of the HUD-determined median income of the city or county in which they live.²⁹ By law, public housing authorities must give seventy-five percent of their housing vouchers to households earning thirty percent or lower of the HUD-determined median income or less.³⁰

While eligibility for the HCV Program is straightforward, actually receiving a housing-choice voucher is extremely difficult. First, qualified applicants greatly outnumber the number of vouchers in existence. According to the Center on Budget and Policy Priorities, the federal government only funds a voucher for one in four families that qualify for the program.³¹ Further, most waitlists for vouchers are closed because of the large pool of applicants and limited supply.³² Second, each PHA has their own strategy about how to distribute vouchers.³³ PHAs work with local government and nonprofit organizations to prioritize certain groups to meet various needs in the community.³⁴ PHAs often give preference to those currently experiencing homelessness, veterans, the elderly, people with disabilities, working families,

26. *Id.* at 207–08. In 1965, the Federal Housing Authority piloted a program that paid private landlords directly to subsidize rent for low-income renters. *Id.* This experiment supported the roll out of Section 8 in 1974. *Id.*

27. See *Housing Choice Vouchers Fact Sheet*, U.S. DEP’T HOUS. & URB. DEV., https://www.hud.gov/topics/housing_choice_voucher_program_section_8 [<https://perma.cc/NA7Y-PK8X>].

28. *Id.*

29. *Id.*

30. *Id.*

31. Bailey, *supra* note 6.

32. Sonya Acosta & Erik Gartland, *Families Wait Years for Housing Vouchers due to Inadequate Funding*, CTR. ON BUDGET & POL’Y PRIORITIES (July 22, 2021), <https://www.cbpp.org/research/housing/families-wait-years-for-housing-vouchers-due-to-inadequate-funding> (on file with the *Iowa Law Review*).

33. *Housing Choice Vouchers Fact Sheet*, *supra* note 27.

34. See U.S. DEP’T HOUS. & URB. DEV., THE HUD CONTINUUM OF CARE (COC) RE-IMAGINING INITIATIVE AND ACCOMPLISHMENTS 1 (2018), <https://www.hud.gov/sites/dfiles/SPM/documents/6-SuccessStories-Homelessness.pdf> [<https://perma.cc/AT3T-3KU4>] (outlining the Continuum of Care’s role in communities).

residents of the city or county, and those displaced by natural disasters.³⁵ PHAs can choose how much preference to give each group based on the needs of the community.³⁶ For instance, PHAs cannot make residency of the county a condition, but they can heavily prioritize it when crafting preference policies.³⁷ If an individual or family is deemed eligible and awarded a voucher, the PHA verifies the household's income and demographics. The household is responsible for finding a unit that is suitable within sixty days of being issued the voucher.³⁸ Once the tenants 'lease up,' they pay about thirty percent of their household income towards rent, and the remainder is sent directly from the PHA to the landlord.³⁹

For those who are able to utilize their HCV, the outcome can be life-changing.⁴⁰ More than one million people are kept above the poverty line because of HCV support.⁴¹ People with HCVs find housing in safer neighborhoods with improved access to public services and better employment opportunities.⁴² There are 5.3 million people who benefit from vouchers, sixty-eight percent of whom are children, seniors, and people with disabilities.⁴³ HCVs are particularly impactful for families because they "have significant potential to improve intergenerational mobility"⁴⁴ and "reduc[e] crowding, housing instability, and homelessness" among families.⁴⁵ Children in households with HCVs experience higher educational outcomes.⁴⁶ In the current housing crisis, cost burdens on renters have reached record levels and first-time

35. U.S. DEP'T HOUS. & URB. DEV., PUBLIC HOUSING OCCUPANCY GUIDEBOOK: WAITING LIST AND TENANT SELECTION 16–18, https://www.hud.gov/sites/dfiles/PIH/documents/PHOG_Waiting_List_Chapter.pdf [<https://perma.cc/YK6W-ARR7>].

36. *Id.*

37. *Id.*

38. See 24 C.F.R. § 982.303 (2023); *Policy Basics: The Housing Choice Voucher Program*, *supra* note 5. However, some PHAs are more flexible and offer up to 120 days for a household to find a suitable unit. See *Housing Choice Vouchers Fact Sheet*, *supra* note 27.

39. *Housing Choice Vouchers Fact Sheet*, *supra* note 27.

40. *Id.*

41. *Policy Basics: The Housing Choice Voucher Program*, *supra* note 5.

42. Michael C. Lens, Ingrid Gould Ellen & Katherine O'Regan, *Do Vouchers Help Low-Income Households Live in Safer Neighborhoods? Evidence on the Housing Choice Voucher Program*, 13 CITYSCAPE 135, 150–51 (2011).

43. *United States Housing Choice Voucher Fact Sheet*, CTR. ON BUDGET & POL'Y PRIORITIES (Aug. 9, 2017), https://www.cbpp.org/sites/default/files/atoms/files/3-10-14-hous-factsheets_us.pdf [<https://perma.cc/LXC8-P4X5>].

44. Morris A. Davis, Jesse Gregory, Daniel A. Hartley & Kegan T.K. Tan, *Neighborhood Effects and Housing Vouchers*, 12 QUANTITATIVE ECON. 1307, 1344 (2021).

45. WILL FISCHER, CTR. ON BUDGET & POL'Y PRIORITIES, RESEARCH SHOWS HOUSING VOUCHERS REDUCE HARDSHIP AND PROVIDE PLATFORM FOR LONG-TERM GAINS AMONG CHILDREN 1 (2015), <https://www.cbpp.org/sites/default/files/atoms/files/3-10-14-hous.pdf> [<https://perma.cc/GLY5-8NVS>].

46. Amy Ellen Schwartz, Keren Mertens Horn, Ingrid Gould Ellen & Sarah A. Cordes, *Do Housing Vouchers Improve Academic Performance? Evidence from New York City*, 39 J. POL'Y ANALYSIS & MGMT. 131, 154–55 (2019).

homelessness has increased twenty-three percent.⁴⁷ People who have experienced homelessness are three and a half times more likely to die prematurely than people who have housing.⁴⁸ The HCV Program is keeping people out of homelessness, creating new educational and employment opportunities, and, ultimately, keeping people alive.⁴⁹

C. HOW CAN A VOUCHER HOLDER USE THEIR SUBSIDY?

SOI discrimination is just one of the difficulties for households who eventually obtain an HCV. Once a voucher is awarded, the household must find a suitable unit. A suitable unit has four characteristics which are difficult to find in a single unit. First, the rental cost of the unit must be below the HUD-determined payment standards called Fair Market Rents (“FMR”).⁵⁰ To calculate FMRs, HUD “estimates . . . rent plus the cost of utilities” by calculating an average rent in a geographical area based on data from recent movers.⁵¹ While HUD attempts to factor in inflation each year, FMRs remain very low in high-rent areas, making it difficult for voucher holders to find a unit under the standard.⁵²

Second, leases must meet HUD requirements, and the landlord must sign a Housing Assistance Payment (“HAP”) contract with the PHA. HUD requires that leases be yearlong and include a tenancy addendum.⁵³ Furthermore, the HAP contract assigns the responsibilities of the landlord and the PHA.

47. Daniel Soucy, Makenna Janes & Andrew Hall, *State of Homelessness: 2024 Edition*, NAT’L ALL. TO END HOMELESSNESS, <https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness> [<https://perma.cc/U4HL-AK6H>].

48. Iliana Logani, Bruce D. Meyer & Angela Wyse, *The Mortality of the US Homeless Population*, U. CHI. BECKER FRIEDMAN INST. FOR ECON. (Mar. 27, 2023), <https://bfi.uchicago.edu/insight/research-summary/the-mortality-of-the-us-homeless-population> [<https://perma.cc/B96B-66YP>].

49. See JOINT CTR. FOR HOUS. STUD. HARV. UNIV., *THE STATE OF THE NATION’S HOUSING 2023*, at 5–6 (2023), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2023.pdf [<https://perma.cc/TBP7-DXJ5>]; see also Lens et al., *supra* note 42, at 150; *Housing Choice Vouchers Fact Sheet*, *supra* note 27.

50. 24 CFR § 888.113 (2024).

51. *Id.*

52. Paula Beck, *Fighting Section 8 Discrimination: The Fair Housing Act’s New Frontier*, 31 HARV. C.R.-C.L. L. REV. 155, 163 (1996); OFF. POL’Y DEV. & RSCH., U.S. DEP’T OF HOUS. & URB. DEV., *FAIR MARKET RENTS INTRODUCTORY OVERVIEW* (2023); Natalie Campisi, *Fair Market Rent Gets Major Bump—Here Are the 25 Areas with the Biggest Increases*, FORBES ADVISOR (Sept. 1, 2022), <https://www.nasdaq.com/articles/fair-market-rent-gets-major-bump-here-are-the-25-areas-with-the-biggest-increases> [<https://perma.cc/Ng6L-SMS6>] (showing that the Fair Market Rent in some areas increased by thirty percent but inflation has increased for certain rentals by thirty-eight percent nationwide over the last year).

53. OFF. PUB. INDIAN HOUS., U.S. DEP’T HOUS. & URB. DEV., OMB APPROVAL NO. 2577-0169, *HOUSING ASSISTANCE PAYMENTS CONTRACT 1*, 4, 9–12 (2018), <https://www.hud.gov/sites/documents/52641.PDF> [<https://perma.cc/A8YN-PTZX>]. Along with the HAP contracts and tenancy addendums, landlords must submit W-9s and proof that they own the property. HCV Program does not work with any kind of subleasing. Some landlords, mostly single-property landlords, prefer not to sign HAP contracts to avoid tax disclosures.

Landlords are often hesitant to agree to extra terms imposed on them by the government, worried that doing so puts them at the mercy of bureaucracy.⁵⁴

Third, the unit must meet HUD quality requirements. The PHA sends out HUD-certified inspectors to make sure that units are habitable.⁵⁵ If a unit is not habitable, the landlord is expected to make necessary repairs or improvements to make it so. Landlords often complain that HUD standards are too demanding and PHAs do not have enough HUD inspectors to complete the inspections in a timely manner.⁵⁶ For property managers of big apartment complexes who want to get leases signed and rents paid as quickly as possible, the extra time waiting for a HUD inspection is a burden.

Lastly, the tenant must pass the landlord's screening phase. Landlords may have certain qualifications for people who live in their units. The FHA prohibits landlords from screening people out based on their race, color, national origin, religion, sex, familial status, and disability.⁵⁷ However, landlords can filter applicants out based on other characteristics not listed in the FHA, like credit score, income, criminal history, rental history, references, occupancy limits, and pet restrictions.

D. WHAT IS INCOME DISCRIMINATION?

While the FHA protects many classes of people from housing discrimination, it does not protect HCV holders from SOI discrimination. So, in places where SOI discrimination is legal, landlords can refuse to consider applications from HCV holders. For years, scholars have called on Congress to amend the FHA to prohibit this type of landlord abuse,⁵⁸ but the protected classes of the FHA

54. Beck, *supra* note 52, at 163–66; J. Rosie Tighe, Megan E. Hatch & Joseph Mead, *Source of Income Discrimination and Fair Housing Policy*, 32 J. PLAN. LITERATURE 3, 8 (2016).

55. U.S. DEP'T HOUS. & URB. DEV., INTERESTED IN BECOMING A HOUSING CHOICE VOUCHER (HCV) LANDLORD?, <https://files.hudexchange.info/resources/documents/PIH-HCV-Landlord-Interested-In-Becoming-a-HCV-Landlord-Handout.pdf> [<https://perma.cc/J9XU-RVqJ>]. The thirteen parts of the unit that are inspected are: “sanitary facilities,” “food preparation and refuse disposal,” “space and security,” “thermal environment,” “illumination and electricity,” “structure and materials,” “interior air quality,” “water supply,” “lead-based paint,” “access,” “site and neighborhood,” “sanitary conditions,” and “smoke detectors.” *Id.* Furthermore, these standards must be met throughout the tenancy, as the unit will be inspected once a year. *Id.*

56. Beck, *supra* note 52, at 163–66; Tighe et al., *supra* note 54, at 8.

57. Civil Rights Act of 1968, Pub. L. No. 90-284, tit. VIII, 82 Stat. 73, 81–89. The amended FHA is codified at 42 U.S.C. §§ 3601–3619. The FHA was landmark legislation which has assisted 561,472 people with complaints of housing discrimination from 1996 to 2017, but many criticize the government for not enforcing the law vigorously enough. See SHANTI ABEDIN ET AL., NAT'L FAIR HOUS. ALL., MAKING EVERY NEIGHBORHOOD A PLACE OF OPPORTUNITY: 2018 FAIR HOUSING TRENDS REPORT 13 (2018), https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report_4-30-18.pdf [<https://perma.cc/45VA-MDU7>].

58. See James Robert Breymaier, *The Need to Prioritize the Affirmative Furthering of Fair Housing: A Case Statement*, 57 CLEV. ST. L. REV. 245, 255 (2009); Jamie H. Wood, *Opportunity Gap: A Survey of State Source-of-Income Protection Laws and How They Address the Challenges Facing the Federal Housing Choice Voucher Program*, 55 U. RICH. L. REV. 691, 712 (2021); ALISON BELL, BARBARA SARD & BECKY

have remained unchanged since 1988.⁵⁹ Each year since 2019, congresspeople have tried, unsuccessfully, to amend the FHA to include source of income as a protected characteristic.⁶⁰ Some states and cities have responded to the inaction of Congress by enacting their own statutes that make SOI a protected class.⁶¹

Outright denial of a voucher is not the only hurdle that SOI discrimination creates for HCV Program participants. In practice, SOI discrimination affects HCV holders because many landlords specifically advertise that they will not consider applications from HCV holders.⁶² Secondly, with no SOI discrimination protection laws, landlords and property management companies do not have to count the HCV holder's voucher as household income.⁶³ Since most HCV holders have very low income, they cannot meet the minimum income qualifications for the unit if the value of their HCV is not included in their income. Additionally, although difficult to prove empirically, housing advocates believe that landlords use their ability to turn vouchers away to discriminate against groups of people protected under the FHA.⁶⁴

The result of SOI discrimination is that people in poverty are excluded from higher-quality units and neighborhoods with access to better schools, employment opportunities, and public transportation.⁶⁵ SOI discrimination also disproportionately harms non-white HCV holders in two ways. First, sixty-

KOEPNICK, CTR. ON BUDGET & POL'Y PRIORITIES, PROHIBITING DISCRIMINATION AGAINST RENTERS USING HOUSING VOUCHERS IMPROVES RESULTS: LESSONS FROM CITIES AND STATES THAT HAVE ENACTED SOURCE OF INCOME LAWS 5-11 (2018), <https://www.cbpp.org/sites/default/files/atoms/files/10-10-18hous.pdf> [<https://perma.cc/R4DJ-R4JE>].

59. In 1974, the FHA included sex as a class protected from housing discrimination. Housing and Community Development Act of 1974, Pub. L. 93-383, tit. VIII, § 808(b)(1), 88 Stat. 633, 729. In 1988, familial status and disabilities were added to the protected classes. Fair Housing Amendments Act of 1988, Pub. L. 100-430, §§ 6(a)-(b)(2), (e), 15, 102 Stat. 1619, 1620-23, 1636.

60. Fair Housing Improvement Act of 2019, S. 1986, 116th Cong. (2019); Fair Housing Improvement Act of 2022, S. 4485, 117th Cong.; Fair Housing Improvement Act of 2023, S. 1267, 118th Cong. (2023).

61. See *infra* Section I.E.

62. See EVA ROSEN, *THE VOUCHER PROMISE: "SECTION 8" AND THE FATE OF AN AMERICAN NEIGHBORHOOD* 118 (Princeton Univ. Press 2020).

63. *Id.* at 118-19 (saying that even with SOI discrimination protections, landlords can avoid renting to HCV holders by setting the rent right above FMR, using credit scores, and intentionally failing the HUD inspection).

64. MARY CUNNINGHAM ET AL., U.S. DEP'T HOUS. & URB. DEV., *A PILOT STUDY OF LANDLORD ACCEPTANCE OF HOUSING CHOICE VOUCHERS*, at ix (2018). This study tested voucher acceptance in five different cities. *Id.* at x. In each city, researchers gathered a sample of rental advertisements from the internet from each area code. *Id.* at ix. A tester would call and record what kind of information the landlord would provide when they mentioned the tester had a voucher and when the tester did not have a voucher. *Id.* at x. The study found that many landlords don't accept vouchers and that finding units that are affordable for vouchers is very difficult. *Id.* at xi.

65. *Id.* at 69; Lisa M. Krzewinski, *Section 8's Failure to Integrate: The Interaction of Class-Based and Racial Discrimination*, 21 B.C. THIRD WORLD L.J. 315, 320-21 (2001).

six percent of HCV holders are Black or Hispanic.⁶⁶ Simply by being most of the households in the HCV Program, Black and Hispanic applicants are affected more prominently by SOI discrimination. Second, although empirical evidence on the subjective mindset of landlords is difficult to assess, many scholars believe that SOI income discrimination is used to discriminate on the basis of race.⁶⁷ Black HCV holders in particular are more likely to face SOI discrimination than other racial groups.⁶⁸

Some scholars have suggested disparate impact claims to adjudicate the loophole of SOI discrimination.⁶⁹ Disparate impact claims are causes of action authorized by the FHA to provide a remedy for housing discrimination if the conduct of the defendant disproportionately harms a class protected by the FHA.⁷⁰ To make out a disparate impact claim, the plaintiff must present statistical data that a protected class is being disproportionately harmed by the defendant's conduct.⁷¹ If the plaintiff can show disproportionate harm, the defendant has the burden to prove that there is a legitimate, nondiscriminatory purpose of their conduct.⁷² The plaintiff still has a claim if they can show that the defendant's legitimate purpose could be realized through a method that has a less discriminatory effect.⁷³

The Supreme Court most recently affirmed that disparate impact claims are cognizable under the FHA in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*.⁷⁴ The Court found that disparate impact claims were an important component in "the Fair Housing Act's continuing role in moving the Nation toward a more integrated society."⁷⁵ However, the Court upheld that defendants must be able "to maintain a policy if they can

66. Abby Vesoulis, 'A Mask for Racial Discrimination.' *How Housing Voucher Programs Can Hurt the Low-Income Families They're Designed to Help*, TIME (Feb. 20, 2020, 7:28 AM), <https://time.com/5783945/housing-vouchers-discrimination> [<https://perma.cc/5JLG-RBWX>].

67. See Rebecca Tracy Rotem, *Using Disparate Impact Analysis in Fair Housing Act Claims: Landlord Withdrawal from the Section 8 Voucher Program*, 78 *FORDHAM L. REV.* 1971, 1980-82 (2010); Krzewinski, *supra* note 65, at 320-21.

68. CUNNINGHAM ET AL., *supra* note 64, at 11.

69. Tamica H. Daniel, *Bringing Real Choice to the Housing Choice Voucher Program: Addressing Voucher Discrimination Under the Federal Fair Housing Act*, 98 *GEO. L.J.* 769, 771-72 (2010); Rotem, *supra* note 67, at 1974.

70. See Rotem, *supra* note 67, at 1985, 1985 n.105 (explaining the components of a disparate impact claim); Kody Glazer, *Fair Housing Act at 50: Challenging the Disparate Impact of Predictive Analytics*, 46 *FLA. ST. U. L. REV.* 457, 462-64 (2019). See generally Jamie L. Crook, *Disparate Impact*, NAT'L LOW INCOME HOUS. COAL. (2017), https://nlihc.org/sites/default/files/AG-2017/2017A_G_Cho7-So1_Disparate-Impact.pdf [<https://perma.cc/LX2E-GTEJ>] (providing an overview of disparate impact claims and recent cases).

71. *Tex. Dep't of Hous. & Cmty. Affs. v. Inclusive Cmty. Project, Inc.*, 576 U.S. 519, 524 (2015).

72. *Graoch Assocs. #33 v. Louisville/Jefferson Cnty. Metro Hum. Rels. Comm'n*, 508 F.3d 366, 374 (6th Cir. 2007).

73. *Tex. Dep't of Hous. & Cmty. Affairs*, 576 U.S. at 527-28.

74. See generally *id.*

75. *Id.* at 547.

prove it is necessary to achieve a valid interest” because “[t]he FHA does not decree a particular vision of urban development.”⁷⁶

There are few disparate impact cases that directly address SOI discrimination. One of these cases is *National Fair Housing Alliance v. Travelers Indemnity Company*. There, a housing nonprofit brought a disparate impact claim against an insurance company because the insurance company would not provide insurance policies for landlords who rented to households with HCVs.⁷⁷ The National Fair Housing Alliance argued that the insurance company’s policy had a disparate effect on Black households and households headed by women.⁷⁸ The insurance company did not argue that the purpose of their conduct was a legitimate one; they argued that failure to provide insurance to landlords was too attenuated from the effects on the HCV holders.⁷⁹ The U.S. District Court for the District of Columbia found that the National Fair Housing Alliance had standing and that they had sufficiently stated a claim that the insurance company’s policies had a disparate effect on classes protected by the FHA.⁸⁰ The case later settled.⁸¹

A case like *Travelers* demonstrates that disparate impact claims may be helpful when there is an organization that has the resources to collect data and commence a lawsuit. Disparate impact claims are meant to remedy large-scale policies that have a discriminatory effect on HCV holders. They are not built to remedy individual instances of discrimination that an HCV holder might experience.

Despite the administrative recognition that disparate impact claims are necessary to police bad actors in the landlord community, these claims rarely succeed.⁸² Wins for those who faced discrimination are difficult to come by because tenants need statistical data of the disparate impact on a protected class, which is difficult to gather if the tenant does not have the data or the resources to access the data. Furthermore, most disparate impact claims involve landlords who chose to withdraw from the HCV Program, not landlords that chose to never participate in the first place.⁸³ This means that disparate impact claims would not address landlords who automatically reject HCV applicants. The

76. *Id.* at 541–42.

77. *Nat’l Fair Hous. All. v. Travelers Indem. Co.*, 261 F. Supp. 3d 20, 23–24 (D.D.C. 2017).

78. *Id.* at 23.

79. *Id.* at 29.

80. *Id.* at 34.

81. Press Release, Nat’l Fair Hous. All., DC Federal District Court Rejects Travelers Insurance Motion to Dismiss Fair Housing Act Disparate Impact Claim (Aug. 22, 2017), <https://nationalfairhousing.org/dc-federal-district-court-rejects-travelers-insurance-motion-to-dismiss-fair-housing-act-disparate-impact-claim> [<https://perma.cc/F6TFJW6X>].

82. Stacy E. Seicshnaydre, *Is Disparate Impact Having Any Impact? An Appellate Analysis of Forty Years of Disparate Impact Claims Under the Fair Housing Act*, 63 AM. U. L. REV. 357, 363 (2013).

83. Austin K. Hampton, *Vouchers as Veils*, 2009 U. CHI. LEGAL F. 503, 505.

greatest influence that disparate impact claims have is not for individual plaintiffs, but the policies that local governments adopt in the wake of these lawsuits.⁸⁴

HUD has never mandated that private landlords accept HCVs.⁸⁵ Landlords argue that adding SOI as a protected class would force them to participate in a federal program and take away their freedom to choose their renters.⁸⁶ Landlords also perceive working with the government as burdensome.⁸⁷ For example, landlords often complain about the delay and thoroughness of HUD inspections.⁸⁸ In some situations, landlords don't want the government involved in their rental payments to avoid paying full taxes on their rental income.⁸⁹ Landlords are also concerned with the challenges of obtaining money from low-income tenants if there is damage to the property or nonpayment of the tenant's portion of rent.⁹⁰ Other landlords, especially commercial property managements, believe they lose money by keeping units unfilled while waiting for the PHA to process the HAP contract and the lease.⁹¹

E. RESPONSES TO SOI DISCRIMINATION

Data suggests that laws prohibiting SOI discrimination can improve the chances that the HCV holder will find better quality housing.⁹² In fact, fifteen states have passed laws barring SOI discrimination against HCV holders.⁹³ Legal protections do decrease discrimination.⁹⁴ Some states have implemented creative but more indirect solutions like preventing landlords from considering the credit scores of HCV holders.⁹⁵ Cities, counties, and local governments

84. Tighe et al., *supra* note 54, at 6.

85. See Robert G. Schwemm, *Source-of-Income Discrimination and the Fair Housing Act*, 70 CASE W. RESV. L. REV. 573, 588 (2020). In 1987 there was an amendment to the program that mandated that if a landlord took one voucher holder, that landlord could not discriminate against other voucher holders. *Id.* However, that was repealed in 1998 because the requirement discouraged landlords to participate. *Id.*

86. Beck, *supra* note 52, at 163–66.

87. See, e.g., *Source of Income Laws*, LOC. HOUS. SOLS. (May 17, 2021), <https://localhousingsolutions.org/housing-policy-library/source-of-income-laws> [<https://perma.cc/NG4M-MWAH>].

88. Celine Castronuovo, *Iowa Governor Signs Law Allowing Landlords to Refuse Section 8 Vouchers*, HILL (May 1, 2021, 1:10 PM), <https://thehill.com/homenews/state-watch/551315-iowa-governor-signs-law-allowing-landlords-to-refuse-section-8-vouchers> (on file with the *Iowa Law Review*).

89. I have seen this firsthand when trying to get landlords to rent to my clients with HCVs.

90. Castronuovo, *supra* note 88.

91. *The Advantages and Risks of Becoming a Section 8 Landlord*, INNAGO (July 5, 2023), <https://innago.com/the-advantages-and-risks-of-becoming-a-section-8-landlord> [<https://perma.cc/U23T-ZQWJ>].

92. See CUNNINGHAM ET AL., *supra* note 64, at 12; Rotem, *supra* note 67, at 1984 n.100.

93. Wood, *supra* note 58, at 700–02.

94. CUNNINGHAM ET AL., *supra* note 64, at 66 (“Among our five study sites, landlord discrimination against voucher holders was more common in jurisdictions without protections and less common where protections were in place.”).

95. Ashley Balcerzak, *Credit Scores Affect Affordable Housing Eligibility*. *NJ Lawmakers Consider Bill to Help Renters*, NORTHJERSEY.COM (Apr. 16, 2021, 4:00 AM), <https://www.northjersey.com/st>

also have confronted SOI discrimination. For instance, 137 local ordinances were passed across the United States to prohibit various degrees of SOI income discrimination.⁹⁶ In fact, three Iowa cities had recognized the importance of protecting their HCV holders from income discrimination. Iowa City, Marion, and Des Moines had all enacted local statutes banning landlords from SOI discrimination.⁹⁷

However, only two states have *prevented* cities and counties from protecting low-income tenants from SOI discrimination. In response to actions by cities in their states, Indiana and Texas have legislatively preempted local ordinances protecting HCV holders from discrimination.⁹⁸ These states decided to remove protections for low-income renters *and* local control from city governance. In 2023, Texas made their law marginally better by preventing homeowners associations from discriminating based on SOI.⁹⁹ This amendment was in response to instances of homeowners associations blatantly using SOI discrimination to racially discriminate against prospective tenants.¹⁰⁰

Then, on April 30, 2021, Iowa joined the ranks of Indiana and Texas, becoming the third state to prevent its cities from protecting voucher holders from SOI discrimination.¹⁰¹ Governor Kim Reynolds signed Senate File 252 into law, creating a new subsection under the Local Government County Home Rule Implementation section, Iowa Code section 331.304(13). It reads:

A county shall not adopt or enforce an ordinance or regulation that prohibits an owner, lessor, sublessor, managing agent, or other person having the right to lease, sublease, or rent out a dwelling unit from refusing to lease or rent out the dwelling unit to a person because of the person's use of a federal housing choice voucher

ory/news/new-jersey/2021/04/16/credit-scores-affect-nj-affordable-housing-lawmakers-consider-bill-renters/7126259002 [https://perma.cc/R3UZ-S8GS].

96. POVERTY & RACE RSCH. ACTION COUNCIL, EXPANDING CHOICE: PRACTICAL STRATEGIES FOR BUILDING A SUCCESSFUL HOUSING MOBILITY PROGRAM app. B, at 2–6 (2025), <http://www.prr.ac.org/pdf/AppendixB.pdf> [https://perma.cc/534K-PZKG]. While most local statutes banned SOI discrimination outright, a few ordinances focused only on city subsidized properties. *Id.* Another very small portion of local statutes specifically did not extend the income protection to HCVs. *Id.*

97. IOWA CITY, IOWA, 2 IOWA CITY CODE ch. 3 § 2-3-5 (2024); MARION, IOWA, 2 CODE ch. 181, art. II § 181-3.1B (2024); DES MOINES, IOWA, CITY CODE ch. 62, art. I, § 62-101 (2024).

98. MARTHA GALVEZ, SOLOMON GREENE, ALYSE D. ONETO & PATRICK SPAUSTER, PROTECTING HOUSING CHOICE VOUCHER HOLDERS FROM DISCRIMINATION: LESSONS FROM OREGON AND TEXAS 4 (2020), <https://www.urban.org/sites/default/files/publication/103088/protecting-housing-choice-voucher-holders-from-discrimination.pdf> [https://perma.cc/9WW4-FFS7].

99. Sarah Holder & Kriston Capps, *How Texas HOAs Are Keeping Low-Income Renters Out*, BLOOMBERG (August 31, 2023, 4:25 PM), <https://www.bloomberg.com/graphics/2023-hoa-texas-homes-dallas-renters> [https://perma.cc/QS26-EgQB].

100. *Id.*

101. Letter from Kim Reynolds, Governor of Iowa, to Paul Pate, Sec'y of State of Iowa (Apr. 30, 2021), <https://www.legis.iowa.gov/legislation/BillBook?ba=SF%20252&ga=89> [https://perma.cc/CU3G-PP7V].

issued by the United States [D]epartment of [H]ousing and [U]rban [D]evelopment. Such an ordinance or regulation in effect on January 1, 2021, is void and unenforceable on and after January 1, 2023. For purposes of this subsection, “*dwelling unit*” means the same as defined in section 562A.6.¹⁰²

This statute prohibits cities in Iowa from protecting their HCV holders from SOI discrimination.

F. THE STORY OF IOWA’S SOI LAW

The cities of Des Moines, Marion, and Iowa City had local ordinances that protected renters from SOI discrimination.¹⁰³ Together, these three city ordinances protected 5,181 of the 19,658 households utilizing vouchers—almost twenty-six percent of all voucher holders in the state.¹⁰⁴ These cities had seen the harm of SOI discrimination in their communities and specifically legislated against that harm. However, the Iowa Legislature preempted those ordinances by passing Iowa Code section 331.304, which said that local governments cannot pass law protecting their HCV holders from SOI discrimination.

The Iowa Legislature passed section 331.304(13) in April of 2021, only one month after the American Rescue Plan Act of 2021 (“ARP”) was passed.¹⁰⁵ The ARP, passed in March of 2021, sought to respond to the devastation of the COVID-19 pandemic.¹⁰⁶ The Act created a national vaccine program, reopened schools, funded direct relief to American families, and supported communities most impacted by the pandemic.¹⁰⁷ The ARP allocated 70,000 emergency HCVs to PHAs across the country for “individuals and families who are experiencing homelessness; at risk of experiencing homelessness; fleeing . . . domestic violence, dating violence, sexual assault, stalking, or human trafficking; or were recently homeless and for whom providing rental assistance will prevent the family’s homelessness or having high risk of housing instability.”¹⁰⁸ If the 70,000 emergency vouchers were distributed proportionally

102. IOWA CODE § 331.304(13) (2024).

103. IOWA CITY, IOWA, 2 IOWA CITY CODE ch. 3, § 2-3-5 (2024); MARION, IOWA, 2 CODE ch. 181, art. II, § 181-3.1B (2024); DES MOINES, IOWA, CITY CODE ch. 62, art. I, § 62-101 (2024).

104. *Housing Choice Voucher (HCV) Data Dashboard*, U.S. DEP’T HOUS. & URB. DEV. (July 2024), https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/dashboard (on file with the *Iowa Law Review*).

105. American Rescue Plan Act of 2021, Pub. L. No. 117-2, 135 Stat. 4; *see also* WHITE HOUSE, AMERICAN RESCUE PLAN 1-2 (2021), <https://www.whitehouse.gov/wp-content/uploads/2021/03/American-Rescue-Plan-Fact-Sheet.pdf> [<https://perma.cc/DY2E-VCZS>] (summarizing the main goals of the ARP and the programs targeted at meeting those goals).

106. WHITE HOUSE, *supra* note 105.

107. *Id.*

108. U.S. DEP’T HOUS. & URB. DEV., NOTICE PIH 2021-15 (HA), EMERGENCY HOUSING VOUCHERS—OPERATING REQUIREMENTS 1 (2021) (footnote omitted); *see also Homeless System Response:*

by population, Iowa would have been expecting 666 vouchers. They ended up with less than half that amount, with a grand total of 319 emergency vouchers.¹⁰⁹

Along with the funding, PHAs were instructed that they should “address housing inequities driven by systemic racism” and “reduce barriers to housing for people from historically marginalized populations including people of color, Indigenous people, LGBTQ+ individuals, and people with disabilities.”¹¹⁰ The Secretary of HUD, Marcia Fudge, recommended the Department of Justice bring lawsuits against states with statutes like section 331.104(13) because these laws “purposely mak[e] it more difficult for people to find housing.”¹¹¹ Fudge said that HUD is “within our rights to demand that these communities cooperate with what [HUD is] doing.”¹¹² As of the time of writing, the Department of Justice has not filed a lawsuit against Iowa for its SOI law.

Julian B. Garrett, a Republican senator from Warren County, sponsored the bill.¹¹³ There were eighty-four diverse lobbyists against the bill, including the American Civil Liberties Union of Iowa, City of Cedar Rapids, City of Des Moines, Polk County Board of Supervisors, City of Iowa City, Iowa State Bar Association, United Ways of Iowa, and Iowa Housing Partnership.¹¹⁴ On the other hand, there were very few lobbyists that supported the bill. In fact, each of these lobbyists specifically represented landlords: the Greater Iowa Apartment Association, Landlords of Iowa, Eastlake Partnership, Iowa Landlord Association, and Iowa Apartment Association.¹¹⁵

Many legislators saw this bill as extremely harmful to vulnerable communities with no apparent benefit to anyone, even landlords. Senator Smith from Woodbury argued that this law specifically hurt “those with disabilities,

Emergency Housing Voucher Funding Briefs: Permanent Supportive Housing (PSH) and Supportive Services, U.S. DEP’T HOUS. & URB. DEV., <https://files.hudexchange.info/resources/documents/COVID-19-Homeless-System-Response-Emergency-Housing-Vouchers-Funding-Briefs-PSH-and-Supportive-Services.pdf> [<https://perma.cc/TqJ7-3AZ5>] (detailing ARP eligibility requirements for HCVs).

109. *Emergency Housing Voucher Dashboard*, OFF. PUB. & INDIAN HOUS., U.S. DEP’T HOUS. & URB. DEV., <https://app.powerbigov.us/view?r=eyJrIjoieYjU4MzlkNzEtM2MxZiooZjhjLTkyNTEtYjI2OWUzZjAoYTIwIiwidCI6IjYxNTUyNGM1LTIyZTktNGJjZC1hODkLTExODhNTNmYzdiMiJ9> [<https://perma.cc/VMZ8-TTWK>].

110. *Homeless System Response: Emergency Housing Voucher Funding Briefs: Permanent Supportive Housing (PSH) and Supportive Services*, *supra* note 108, at 2.

111. The Reidout, *Secretary Marcia Fudge: ‘Fair Housing is the Law of the Land’*, MSNBC (Mar. 17, 2021), <https://www.msnbc.com/the-reidout/watch/secretary-marcia-fudge-fair-housing-is-the-law-of-the-land-108726853865> [<https://perma.cc/33HJ-5WA8>].

112. *Id.* at 01:36.

113. S.F. 252, 89th Gen. Assemb., Reg. Sess. (Iowa 2021) (enacted).

114. *Lobbyist Declarations*, SF 252, IOWA LEG., <https://www.legis.iowa.gov/lobbyist/reports/declarations?ga=89&ba=SF252> [<https://perma.cc/97CL-D3GL>].

115. *Id.*

veterans, the elderly, kids aging out of the foster system, [and] families living in poverty” because those are the people utilizing vouchers.¹¹⁶

In addition to hurting people in poverty, legislators argued that this bill does not provide a benefit to landlords. Senator Mathis from Linn County pointed out that SOI discrimination protection “is not forcing anyone to participate in the [HCV] program” but allows counties to mandate that the HCV be counted towards the HCV holder’s income on the rental application, which would make it easier for an HCV voucher holder’s application to get accepted.¹¹⁷

Other legislators objected because it took away local control, preventing cities from responding to the unique needs of the people in their communities. Senator Bisignano, representative of Des Moines, Iowa’s largest urban center, argued that senators from rural areas should not be taking away the power of Des Moines to legislate on issues primarily affecting urban areas, such as housing policy.¹¹⁸ Furthermore, Senator Bolkcom from Johnson County contended that the bill was undemocratic because it “takes away . . . local decision making by local elected officials.”¹¹⁹

Lastly, those in opposition to the bill criticized its hypocrisy. Senator Bisignano argued that “this bill really makes no sense . . . in the big picture of this session” which has been “to get this community back working the way it was prior to the pandemic” instead of going after “the most vulnerable people in the state of Iowa.”¹²⁰ Further, Senator Bisignano compared federal housing subsidies to federal farm subsidies. His logic was this: Landlords are not able to discriminate against the federal subsidies that are given to farmers—which make up an incredible thirty-nine percent of all farm income in Iowa—therefore, the Iowa Legislature should not allow discrimination based on a different federal subsidy like an HCV.¹²¹ Senator Bisignano’s point was that subsidies only become an issue to the Iowa Legislature when they are given to people in poverty.

Only the bill’s sponsor, Senator Garrett, spoke in its support. Senator Garrett argued only three out of nine hundred cities and towns in Iowa will be affected.¹²² Senator Garrett also posited that this bill does not upend local control because there is nothing “more local than the individual property owner” and the ability of those local landlords to do what they want with their property.¹²³

116. *Senate Video (2021-03-17)*, IOWA LEGISLATURE, at 11:34:46 (Mar. 17, 2021), <https://www.legis.iowa.gov/dashboard?view=video&chamber=S&clip=s20210317085945542&dt=2021-03-17&offset=9198&bill=SF%20252&status=i&ga=89> [<https://www.legis.iowa.gov/perma/1017202412933>] (statement of Sen. Jackie Smith).

117. *Id.* at 11:37:50 (statement of Sen. Liz Mathis).

118. *Id.* at 11:50:00 (statement of Sen. Tony Bisignano).

119. *Id.* at 11:40:00 (statement of Sen. Joe Bolkcom).

120. *Id.* at 11:46:40 (statement of Sen. Tony Bisignano).

121. *Id.* at 11:53:25.

122. *Id.* at 11:40:00 (statement of Sen. Julian Garrett).

123. *Id.* at 12:09:38.

No other Republicans spoke out in favor of the bill, and no other Republican needed to. In the Republican controlled legislature, voting along party lines is expected.¹²⁴ Indeed, the vote to pass Senate File 252 into law settled on strictly political lines.¹²⁵ Thirty Republicans voted in favor of passing the law, seventeen Democrats voted against the bill.¹²⁶

II. IOWA'S SOI LAW HARMS LOCAL GOVERNMENTS AND CITIZENS

This Part will demonstrate that the negative effects of Iowa Code section 331.304(13) vastly outweigh any of its alleged benefits. First, this Part will examine how section 331.304(13) siphoned power away from local governmental entities to the benefit of state power. Second, this Part will articulate how section 331.304(13) undermines the federal housing goals advanced by the ARP and the HCV Program. Third, this Part will argue that SOI discrimination is often used to discriminate against classes protected by the FHA, especially race.

A. SECTION 331.304(13) TAKES POWER AWAY FROM LOCAL GOVERNMENT

Federal housing policy has trended toward local control because it is more efficient—local governments know the needs of their communities best.¹²⁷ However, the Iowa law that was passed by Republicans takes away power from cities to remedy the negative effects of the SOI discrimination in their communities. Most states have no law protecting households receiving HCVs.¹²⁸ In those states, city or county governments can, and often do, pass ordinances to minimize SOI discrimination in their community.¹²⁹ Iowa has stripped this local power away from cities and counties.

As the only representative to speak in favor of this bill, Republican Senator Garrett argued that the law protects local control because there is nothing “more local than the individual property owner.”¹³⁰ This argument mistakes local for individual control. Following Senator Garrett’s logic, no local government should make any ordinance that curtails any individual freedom. Further, cities have the political potential to regulate in a more effective way than states.¹³¹

124. See Matt Chapman, *Republican Bill to Protect Housing Discrimination Part of a Pattern*, BLEEDING HEARTLAND (Feb. 24, 2020), <https://www.bleedingheartland.com/2020/02/24/republican-bill-to-protect-housing-discrimination> [<https://perma.cc/AL7F-FME8>] (showing a pattern of Iowa Republicans voting to decrease public aid).

125. IOWA LEGISLATURE, *supra* note 116, at 12:12:35 (statement of Sen. Julian Garrett).

126. *Id.*

127. See *supra* Section I.A.

128. Wood, *supra* note 58, at 700–02.

129. In fact, many local governments have made these laws. See POVERTY & RACE RSCH. ACTION COUNCIL, *supra* note 96, at 3–7.

130. IOWA LEGISLATURE, *supra* note 116, at 12:07:26, 12:09:38 (statement of Sen. Julian Garrett).

131. Richard C. Schragger, *Federalism, Metropolitanism, and the Problem of States*, 105 VA. L. REV. 1537, 1541 (2019).

Here, the Iowa law prevents the most local political unit, the city, from making an ordinance that would address issues specific to the community which made the ordinance.

For example, Johnson County, where Iowa City is located, has the greatest proportion of cost-burdened renters out of all counties in Iowa. A person would need to make almost twenty dollars an hour for a forty-hour work week to be able to afford a one-bedroom apartment.¹³² This is the highest housing wage in the state of Iowa.¹³³ This burdens Iowa City with a housing problem that rural counties do not face or have any expertise addressing. From 2011 to 2012, Iowa City PHA received 664 new HCVs.¹³⁴ In that year, eighty vouchers were not utilized.¹³⁵ In response, Iowa City passed an ordinance in 2015 that protected HCV households from SOI discrimination to increase rental availability for HCV holders.¹³⁶ After that ordinance was passed, Iowa City landlords had to calculate the HCV as income in their income calculations for new applicants. This is a great example of a community recognizing a need for more access to affordable housing and implementing a solution. However, Iowa City's solution to their unique housing problem was preempted by section 331.304(13) in 2023.

Like Des Moines Senator Bisignano argued in the floor debates for section 331.304(13), housing issues that mostly affect urban areas should be left for the cities to manage. Here, there are representatives from rural counties deciding how urban cities with unhoused residents and housing shortages should address issues foreign to rural Iowa. Good policy would be no policy—allow cities to decide their response to the needs of their community.

Additionally, Iowa farmers in rural districts are familiar with federal subsidies. From 1995 to 2021, Iowa farmers received the most federal farm subsidies of any state.¹³⁷ Senator Bisignano remarked that thirty-nine percent

132. See Jerry Anthony, Parya Seif & Rachael Schaefer, *How Pervasive is Source of Income Discrimination Faced by Housing Choice Voucher Households: Lessons from a Progressive Midwestern City*, 47 J. URB. AFFS. 1776, 1776–78 (2025), <https://iro.uiowa.edu/esploro/outputs/journalArticle/How-pervasive-is-source-of-income/9984465559702771> (on file with the *Iowa Law Review*).

133. *Id.*

134. *Id.* at 7.

135. *Id.*

136. IOWA CITY, IOWA, 2 IOWA CODE ch. 3, § 2-3-5 (2024).

137. *Commodity Subsidies in the United States Totaled \$278.8 Billion from 1995-2023*, ENV'T. WORKING GRP., <https://farm.ewg.org/progdetail.php?fips=00000&progcode=totalfarm&page=sates®ionname=theUnitedStates> [<https://perma.cc/79NC-9VZE>]. From 1995 to 2021, Iowa has received the most federal commodity subsidies out of any state. *Id.* There are three different federal commodity programs: the Agriculture Risk Coverage (“ARC”), Price Loss Coverage (“PLC”), and the Marketing Assistance Loan Program. *Title I: Crop Commodity Program Provisions*, U.S. DEP'T. AGRIC. (Aug. 23, 2024), <https://www.ers.usda.gov/topics/farm-economy/farm-commodity-policy/title-i-crop-commodity-program-provisions> [<https://perma.cc/LWN6-6BWW>]. The PLC program issues money to farmers whose covered crops are sold for less than the market year average price. The ARC Program covers the difference between local prices and national prices. *Id.* “The

of all income of Iowa farmers is from the federal government.¹³⁸ Yet, HCVs are treated as a second-class subsidy. By passing section 331.304(13), the Iowa Legislature allows discrimination against people who receive federal subsidies, but only when those federal subsidies go to low-income households.

Senator Garrett, the only advocate for this bill, also argued that the law would not have a negative impact on renters because it only preempts local control in three cities out of nine hundred Iowa cities.¹³⁹ However, these three cities that section 331.304(13) affects are home to twenty-six percent of Iowa's HCV recipients. So, while there is a low number of cities affected, more than one fourth of HCV households would be affected. Senator Garrett's framing misstates this widespread effect, begging the question: Why introduce a bill and guide it through the legislative process if its effects are negligible?

Lastly, history shows that local control is an efficient way for the federal government to administer HCVs.¹⁴⁰ Since HCVs go to individual households, there is a lot of discretion as to which households get to participate in the program. It makes sense that the local governments, who have knowledge of their community's housing needs, have the power to wield that discretion. In fact, local control has been an important aspect of housing policy since the inception of subsidized housing.¹⁴¹ Giving local housing authorities control over federal money created the successful housing program in existence now. Allowing local governance to make laws regarding that assistance would continue to support the program's success.

B. SECTION 331.304(13) UNDERMINES FEDERAL HOUSING GOALS

Iowa Code section 331.304(13) is contrary to the goal of the ARP and the HCV Program. The Iowa Legislature passed this law right before Iowa received emergency HCVs meant to provide direct relief to Iowans affected by COVID-19.¹⁴² The goal of the ARP's emergency HCVs, which was to support households suffering through homelessness in the pandemic,¹⁴³ is hindered by section 331.304(13). Unsheltered people face many barriers to housing.¹⁴⁴

Marketing Assistance Loan program allows producers to use eligible commodities they have produced as collateral for government-issued loans." *Id.* To receive funding from these programs, applicants "must be actively engaged in farming, must meet Adjusted Gross Income (AGI) eligibility limits, and, where payment limitations were continued by the 2018 Farm Bill, may not receive payments above the established limit." *Id.*

138. IOWA LEGISLATURE, *supra* note 116, at 11:46:25–11:53:25 (statement of Sen. Tony Bisignano).

139. *Id.* at 11:40:00–12:10:10 (statement of Sen. Julian Garrett).

140. *See supra* Section I.A.

141. *See supra* Section I.A.

142. *See supra* Section I.F.

143. U.S. DEP'T HOUS. & URB. DEV., *supra* note 108, at 1–2.

144. *See, e.g.*, Christina Wusinich, Lynden Bond, Anna Nathanson & Deborah K. Padgett, "If You're Gonna Help Me, Help Me": Barriers to Housing Among Unsheltered Homeless Adults, 76 EVALUATION &

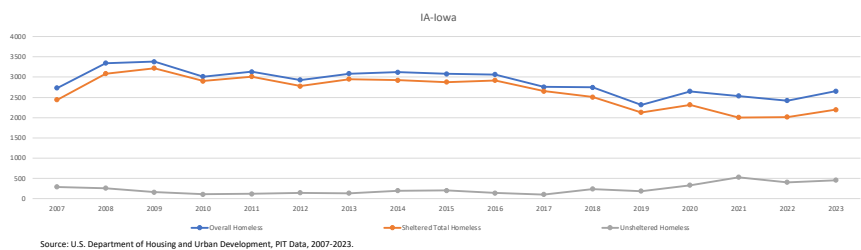
Once they make it through the waitlists and paperwork to receive an HCV,¹⁴⁵ the Iowa Legislature has provided one more barrier: Landlords can turn them away simply because they are receiving federal assistance. So, this Iowa law made it more difficult for struggling individuals and families to utilize federal assistance in the middle of the COVID-19 pandemic.

Second, the point of the HCV Program in general is to help “very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market.”¹⁴⁶

A law that allows HCV holders to be turned away because they hold a voucher undermines the objective of the HCV Program by making it more difficult to find housing in the private market. If HCV holders are turned away because their voucher is not counted toward the minimum income requirement for a unit, then the voucher holder cannot secure a unit for which they are otherwise qualified. Considering all the other qualifications a unit must meet to be eligible for the HCV Program,¹⁴⁷ allowing landlords to further limit the pool of rentals for an arbitrary reason like a tenant’s SOI frustrates the purpose of the HCV Program.

Renters felt the effects of Iowa’s new law. The following chart is from Iowa’s Point in Time (“PIT”) count.¹⁴⁸

Figure 1



PROGRAM PLAN., Oct. 2019, at 1, 3–5; 5 *Little-Known Barriers People Who Are Homeless Experience*, FATHER JOE’S VILLS. (Sept. 21, 2021), <https://my.neighbor.org/little-known-barriers-homeless-experience> [<https://perma.cc/28A6-2MCU>].

145. See *supra* Section I.B.

146. *Housing Choice Vouchers Fact Sheet*, *supra* note 27.

147. See discussion *supra* Section I.C.

148. OFF. POL’Y DEV. & RSCH., U.S. DEP’T OF HOUS. & URB. DEV., 2007–2023 POINT-IN-TIME ESTIMATES BY STATE, <https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html> [<https://perma.cc/J7Z5-F2QE>]. Point in time counts are annual counts where states count all the homeless people in their state; homeless service agencies and social services agencies count all the people in their shelters and people who are sleeping outside. See *Point-in-Time Count and Housing Inventory Count*, HUD EXCHANGE, <https://www.hudexchange.info/programs/hdx/pit-hic/#2024-pit-count-and-hic-guidance-and-training> [<https://perma.cc/5HTG-X9CM>].

Iowa's homelessness rate begins to increase after 2021. The full effects of the law are still to be seen, but the Iowa Legislature's political choice has real effects on its houseless residents.

C. *SOI DISCRIMINATION ALLOWS DISCRIMINATION OF PROTECTED CLASSES*

SOI discrimination is often used as a loophole for landlords to discriminate against classes of HCV holders that are protected by the FHA. When an HCV holder of color applies to a unit, a landlord can turn them away because of their HCV even if the reason is really about their race or a different protected characteristic. Does this really happen? Yes. A 2023 study of the HCV Program in Iowa City revealed “that SOI discrimination is the most common form of discrimination perceived and experienced by HCV households.”¹⁴⁹ The study also found “[t]hat Nonwhite HCV households were much more likely to perceive and report experiencing SOI discrimination than White HCV households.”¹⁵⁰ Data nationally¹⁵¹ and locally¹⁵² shows that SOI discrimination is common and disproportionately affects nonwhite HCV holders. In a country where neighborhoods are still racially segregated,¹⁵³ Iowa's law undermines the worthy objective of the FHA to desegregate neighborhoods.

Without local ordinances, theoretically HCV holders could turn to disparate impact claims. However, disparate impact claims pointed at combatting state laws like Iowa's have not been successful.¹⁵⁴ In *City of Austin v. Paxton*, the City of Austin brought a lawsuit in the U.S. District Court for the Western District of Texas against state officials to prevent them from enforcing Texas's state law that prevented local governments from passing ordinances to protect renters from SOI discrimination.¹⁵⁵ After the district court denied the Texas officials' motion to dismiss, the Fifth Circuit reversed the denial of the motion to dismiss based on the conclusion that federal courts lacked jurisdiction to sue state officials under the Eleventh Amendment.¹⁵⁶

Disparate impact claims may be unlikely remedies for HCV households who face unlawful housing discrimination under the guise of SOI discrimination. HCV households are not protected by the FHA. HCV households are extremely

149. Anthony et al., *supra* note 132, at 3.

150. *Id.* at 14.

151. See discussion *supra* Section I.D.

152. Anthony et al., *supra* note 132, at 14.

153. See Tracy Hadden Loh, Christopher Coes & Becca Buthe, *The Great Real Estate Reset*, BROOKINGS (Dec. 16, 2020), <https://www.brookings.edu/articles/trend-1-separate-and-unequal-neighborhoods-are-sustaining-racial-and-economic-injustice-in-the-us> [<https://perma.cc/Y72N-HB9H>] (finding that while the population of the United States went from ninety percent white to sixty percent white between 1950 and 2018, “the neighborhood of an average white resident in the [hundred] largest metropolitan areas . . . decreas[ed] from [seventy-nine percent] white to [seventy-one percent]” between 2000 and 2018).

154. *City of Austin v. Paxton*, 943 F.3d 993, 1004 (5th Cir. 2019).

155. *Id.* at 996.

156. *Id.* at 996, 1004.

unlikely to win a disparate impact lawsuit because of the cost of gathering statistical data and the current case law which limits a plaintiff's ability to bring a claim against a state. And with the passing of section 331.304(13), the Iowa Legislature has banned local ordinances, so HCV households cannot lobby their local governments for SOI protection.

III. STRATEGIES TO ADDRESS SOI DISCRIMINATION IN IOWA

The Iowa Legislature should repeal section 331.304(13). Based on the current make-up of the Iowa Legislature, this seems unlikely as Republicans—the party that passed the provision—still represent a supermajority. When section 331.304(13) was codified into law, there were eighteen Democratic senators and forty Democrat representatives.¹⁵⁷ There are even less Democrats in the Iowa Legislature now.¹⁵⁸ When party-line votes are expected, the likelihood of a successful campaign to repeal section 331.304(13) is low.

SOI discrimination could also be solved if Congress amended the FHA to include SOI discrimination as a protected class. Scholars and community organizations have called for this protection for years, but recent amendments to make this change have not been successful.¹⁵⁹ Furthermore, like HUD Secretary Marcia Fudge mentioned, the federal government would be within their rights to sue states with laws like Iowa.¹⁶⁰ However, the Housing and Civil Enforcement Section of the Civil Rights Division has not brought a suit of this sort. Federal action to solve SOI discrimination is possible but seems highly unlikely at this point.

Because of a low probability that state and federal solutions will be pursued, this Part argues that the most effective way to counteract SOI discrimination and the harmful impact of section 331.304(13) is to turn to community organizing. First, this Part will look at two successful examples of community responses to state preemption: raising the minimum wage and regulating

157. *Legislators*, IOWA LEGISLATURE, <https://www.legis.iowa.gov/legislators/house> [https://perma.cc/MT95-WZKG] (choose “General Assembly: 89 (01/11/2021 – 01/08/2023)” from the dropdown menu; toggle between the Senate and the House by selecting “Senate” or “House” in the bar labeled “Chamber”).

158. *Id.* (choose “General Assembly: 90 (01/09/2023 – 01/12/2025)” from the dropdown menu).

159. See sources cited *supra* note 58. For the amendment, see Fair Housing Improvement Act of 2022, S. 4485, 117th Cong. (2022); and Fair Housing Improvement Act of 2019, S. 1986, 116th Cong. (2019); see also Wood, *supra* note 58, at 697 n.42. Currently, House Representative Scott H. Peters and Senator Tim Kaine have each introduced a bill in their respective legislative bodies that would amend the FHA to eliminate SOI discrimination. Fair Housing Improvement Act of 2023, H.R. 2846, 118th Cong. (2023); Fair Housing Improvement Act of 2023, S. 1267, 118th Cong. (2023). Both bills were introduced on April 25, 2023, and neither has made it to a committee vote. See *S. 1267 - Fair Housing Improvement Act of 2023*, CONGRESS.GOV, <https://www.congress.gov/bill/118th-congress/senate-bill/1267/actions> [https://perma.cc/4DYW-CJL6]; *H.R. 2846 - Fair Housing Improvement Act of 2023*, CONGRESS.GOV, <https://www.congress.gov/bill/118th-congress/house-bill/2846/actions> [https://perma.cc/68E6-C7RP].

160. The Reidout, *supra* note 111.

concentrated animal feeding operations (“CAFOs”). Second, this Part provides possible avenues of community response that could mitigate the effect of SOI discrimination in Iowa cities.

A. *EXAMPLES OF COMMUNITY RESPONSES TO STATE CONTROL*

In September of 2015, Johnson County passed a city ordinance which began a three-phase increase of the minimum wage over fifteen months.¹⁶¹ By January 1, 2017, Johnson County raised its minimum wage from the federal minimum wage of \$7.25 to \$10.10.¹⁶² Then, on March 30, 2017, the Iowa Legislature passed House File 295 which prohibited counties and cities from increasing the minimum wage above the state’s minimum wage.¹⁶³ Organizations in Johnson County began grassroots efforts to convince businesses to keep the Johnson County minimum wage anyways.¹⁶⁴ The Center for Worker Justice of Eastern Iowa (“Center for Worker Justice”), a nonprofit that had organized support for the original Johnson County ordinance to increase minimum wage, began to lobby local businesses. In return for observing the county’s minimum wage, the Center for Worker Justice advertised businesses as worker friendly and urged the public to support these businesses.¹⁶⁵ Over 165 businesses signed up to maintain the recommended minimum wage.¹⁶⁶ Johnson County has continued to increase their recommended minimum wage according to the Consumer Price Index.¹⁶⁷

The effort of the Center for Worker Justice demonstrates that successful organizing includes benefits for those being organized and education surrounding the goal of organizing. First, the Center for Worker Justice

161. Board of Supervisors, *Reminder: Johnson County Recommended Minimum Wage to Increase to \$12.35 per Hour July 1, 2023*, JOHNSON CNTY. (June 30, 2023), <https://www.johnsoncountyiowa.gov/news/board-supervisors/2023-06-30/reminder-johnson-county-recommended-minimum-wage-increase-1225> [<https://perma.cc/3EAS-RqWE>].

162. *Id.*

163. IOWA CODE § 364.3(12) (2024). The subsection states, “A city shall not adopt, enforce, or otherwise administer an ordinance, motion, resolution, or amendment providing for any terms or conditions of employment that exceed or conflict with the requirements of federal or state law relating to a minimum or living wage rate, any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms or conditions of employment.” *Id.* This law also prevents cities and counties from making laws that require employers to pay extra to “on call” employees, publish schedules in advance, and provide paid sick and family leave. *Workers’ Rights Preemption in the U.S.*, ECON. POL’Y INST. (June 2024), <https://www.epi.org/preemption-map> [<https://perma.cc/2SN7-XYHF>].

164. *About Us*, IOWA CITIZENS FOR CMTY. IMPROVEMENT, <https://www.iowacci.org/history> [<https://perma.cc/QD7B-D3DC>] (referencing the subheading *The 2010s: Building the Future We Deserve, Almost 50 Years of Putting People First*).

165. Adria Carpenter, *The Center for Worker Justice Reflects on 10 Years of Advocacy, From the \$10.10 Pledge to COVID Relief*, LITTLE VILL. (Sept. 6, 2022), <https://littlevillagemag.com/center-for-worker-justice-10th-anniversary> [<https://perma.cc/A8MV-RZF5>].

166. *Id.*

167. Board of Supervisors, *supra* note 161.

offered an incentive to businesses who participated in the recommended minimum wage by endorsing these businesses.¹⁶⁸ This endorsement was valuable because of the negative public sentiment surrounding the state's preemption. Second, the Center's ability to educate businesses and bring them in on the mission of creating better working conditions for workers was an important piece of their successful advocacy.

Community response to Iowa's law restricting local ability to regulate CAFOs is another example of successful community organizing. In the 1998 Iowa Supreme Court case *Goodell v. Humboldt County*, the Court considered whether a county could enforce its air quality standards against a hog CAFO.¹⁶⁹ The Supreme Court adopted an "implied preemption" rule which "require[d] some legislative expression of an intent to preempt home rule authority."¹⁷⁰ Because this rule might allow room for local ordinances to regulate CAFOs, the CAFO lobby, worth more than one billion dollars, convinced the Iowa Legislature to pass a law which prohibited local ordinances from having any regulatory effect on CAFOs.¹⁷¹ The Iowa Legislature listened and preempted local ordinances regulating CAFOs.¹⁷²

Community groups responded. The local Board of Supervisors has the power to approve or deny CAFO construction permits.¹⁷³ Recognizing the harmful effects CAFOs have on human health and the environment¹⁷⁴ and recognizing the Board of Supervisors' power, groups like Poweshiek CARES and Jefferson County Farmers & Neighbors broadcasted where public comment could be made about the expansion of CAFOs.¹⁷⁵ Furthermore, these organizations read the proposed plans to ensure that the CAFOs were held accountable for the information they provided at these meetings.¹⁷⁶

168. See Carpenter, *supra* note 165.

169. *Goodell v. Humboldt Cnty.*, 575 N.W.2d 486, 490–91 (Iowa 1998).

170. *Id.* at 493.

171. N. William Hines, *CAFOs and U.S. Law*, 107 IOWA L. REV. ONLINE 19, 44–45 (2022). The Iowa Farm Bureau, an agency that is very involved in Iowa political races, reported ninety-seven million dollars in total revenue and an investment portfolio which is worth more than one billion dollars. Sky Chadde, Eli Hoff & Mark Ossolinski, *The Iowa Farm Bureau Is a Small Nonprofit. It's Sitting on a Huge Business Empire.*, INVESTIGATE MIDW. (Oct. 7, 2021), <https://investigatemitdwest.org/2021/10/07/the-iowa-farm-bureau-is-a-small-nonprofit-its-sitting-on-a-huge-business-empire> [https://perma.cc/4MPS-Z4EF].

172. IOWA CODE § 331.304A; see also Hines, *supra* note 171, at 44–45.

173. Emily A. Kolbe, Note, "Won't You Be My Neighbor?" *Living with Concentrated Animal Feeding Operations*, 99 IOWA L. REV. 415, 440 (2013). However, "the ultimate authority for approval rests with the IDNR." *Id.* at 441 n.195.

174. See generally Alec T. Goos, Note, *The Smell of Money? An Iowa-Focused Impact Analysis of National Pork Producers Council v. Ross*, 110 IOWA L. REV. 905 (2025) (explaining the harmful effects of factory farming and ways forward for Iowa).

175. Kolbe, *supra* note 173, at 441–42 nn.194–98.

176. See, e.g., *id.* at 441 n.195 (reviewing one organization's board meeting discussion on a resolution "to deny construction for a proposed CAFO").

While local control of regulations that limit CAFOs remains extremely limited,¹⁷⁷ community partners were able to provide a check on new CAFO construction by checking the data. This demonstrates that successful community organizing includes collecting data and presenting it to stakeholders. Lastly, successful community organizing around CAFOs included addressing false data and expectations about the issue at hand. Community organizing around CAFOs in Iowa demonstrates the power individuals possess to act against state control they disagree with.

B. POSSIBLE COMMUNITY SOLUTIONS TO SOI DISCRIMINATION

Iowa communities and organizations can mitigate the effects of SOI discrimination. Like how the Center for Worker Justice organized local businesses to maintain the recommended minimum wage, organizations aimed at solving homelessness and supporting low-income housing should work to provide landlords with incentives. Many PHAs have awarded new landlord signing bonuses where a landlord is given a lump sum of money when they lease to an HCV holder.¹⁷⁸ Some PHAs and nonprofits also have risk reduction funds which minimize the landlord's concerns by offering to pay for damages or unpaid rent.¹⁷⁹ Other nonprofits combatting homelessness have come up with inventive ways to entice landlords to rent to low-income clients. In California, a nonprofit is piloting a program that provides legal representation to the HCV holder *and* the landlord in case mediation or eviction is necessary.¹⁸⁰ Innovative incentives for landlords will create more opportunities for HCV holders.

Additionally, like the outreach of the Center for Worker Justice, organizations can educate landlords on the benefits of the HCV Program and make them feel like part of the solution to homelessness and housing insecurity. Nonprofits can hold informational luncheons where landlords in the community can hear from other landlords that participate in the HCV Program and meet potential renters. Outreach like this would enable landlords to hear the benefits of the HCV Program and become familiar with the process. Additionally, landlords would have their concerns addressed. This kind of communication and relationship building increases housing options and housing stability for HCV holders.¹⁸¹ PHAs can also raise awareness by nominating a "Landlord of

177. Goos, *supra* note 174, at 922–27.

178. See CUNNINGHAM ET AL., *supra* note 64, at 67. See generally U.S. DEP'T HOUS. & URB. DEV., MONETARY INCENTIVES AND REIMBURSEMENTS, <https://files.hudexchange.info/resources/documents/PIH-HCV-Landlord-Guidebook-Monetary-Incentives-and-Reimbursements-Strategy.pdf> [<https://perma.cc/JT9R-4LQV>] (explaining why and how PHAs may use landlord incentives).

179. See, e.g., *Rental Property Owners*, PARTNERS IN HOUS. SOLS., <https://partnersinhousingolutions.org/rental-property-owners> [<https://perma.cc/M6RH-LQKT>].

180. Michelle E. Roberson, *New Beginnings Housing the Unhoused and Looking for Mediators like You*, SANTA BARBARA LAW., Feb. 2023, at 12, 13–14.

181. GALVEZ ET AL., *supra* note 98, at 16–17.

the Year” award to honor an outstanding landlord partner.¹⁸² By celebrating landlord partners, PHAs advertise the HCV Program and bring landlords into the mission of providing housing to low-income renters. Research supports this collaborative and relational approach. A study comparing and contrasting Texas and Oregon responses to SOI income discrimination concluded “the importance of dialogue and coalition building among housing advocates and rental industry stakeholders” is the most effective way to provide protection to HCV holders.¹⁸³

Lastly, like the advocacy of Poweshiek CARES and Jefferson County Farmers & Neighbors, nonprofits should also bring data to the PHAs and the city to instigate change. For instance, a common landlord complaint is that HUD inspections take too long to schedule and thus delay the leasing process.¹⁸⁴ If landlords and nonprofits bring this to the Board of Supervisors and advocate for more HUD inspectors, then they remove a barrier to landlord participation. Research shows that regardless of SOI discrimination protection, a critical piece of decreasing discrimination is “acknowledging and addressing perceived or actual concerns about PHAs’ performance and about the HCV Program.”¹⁸⁵ In order to do this, nonprofits and PHAs should collect data from landlord participants and address their concerns.

CONCLUSION

Throughout the last decade, the Iowa Legislature has repeatedly prevented counties and cities from enacting additional protections for their citizens. Iowa section 331.304(13) is a part of this harmful trend. By prohibiting cities and counties from protecting their citizens from SOI discrimination, the Iowa Legislature is stripping communities of the power to remedy discrimination, cementing a loophole for discrimination banned by the FHA, and hurting people who already face barriers to affordable housing. The composition of the Iowa Legislature most likely will not change soon, and a state’s sovereign immunity prevents it from being sued under an FHA disparate impact claim, undercutting possible legal remedies for HCV holders. However, Iowa communities have established methods of organization that can mitigate the effects of this state overreach. Until legislative relief comes, more Iowa communities can and should employ these community-organizing strategies to protect their low-income citizens from SOI discrimination in housing.

182. See, e.g., *Landlord of the Year Award*, NEW BEGINNINGS COUNSELING CTR., <https://sbnbcc.org/landlord-of-the-year-award> [<https://perma.cc/RG2A-AG5E>] (showing an example of what kinds of awards could be used to recognize landlords).

183. GALVEZ ET AL., *supra* note 98, at 16.

184. Beck, *supra* note 52, at 163–66; Tighe et al., *supra* note 54, at 8.

185. GALVEZ ET AL., *supra* note 98, at 16.