



July 31, 2013

RE: H.R. 2610, Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2014 - Oppose Rep. Scott Garrett Amendment on the Fair Housing Act Discriminatory Effects Standard

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Dear Representative:

On behalf of the American Civil Liberties Union, please find attached our vote recommendation on Rep. Scott Garrett's Amendment to H.R. 2610, Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2014 on HUD's Fair Housing Act Discriminatory Effects Standard (known as the disparate impact regulation). It is anticipated that this amendment will be offered for a vote on the House floor today.

Please contact Policy Counsel Demelza Baer with any questions at 202-715-0807 or DBaer@dcacclu.org.

Regards,

Laura W. Murphy
Director, Washington Legislative Office

Demelza Baer
Policy Counsel

**ACLU Vote Recommendation Against Representative Garrett's Amendment on the
Fair Housing Act Discriminatory Effects Standard
to H.R. 2610, the Transportation, Housing and Urban Development, and Related Agencies
Appropriations Act, 2014**

Representative Garrett (R-NJ) will likely submit an amendment to H.R. 2610, which would prevent the Department of Housing and Urban Development (HUD) from implementing, administering, and enforcing its Fair Housing Act Discriminatory Effects Standard – known as the disparate impact regulation. This would prevent HUD from using the decades-old disparate impact standard, recognized by all 11 U.S. Circuit Courts, to protect Americans from housing discrimination based on their race, color, religion, sex, national origin, disability, or familial status.

The American Civil Liberties Union recommends a NO vote on this anticipated Garrett amendment.

Vote NO on the Garrett amendment because it prohibits HUD from implementing, administering, and enforcing its Fair Housing Act regulation on disparate impact.

The ACLU opposes this amendment because it:

- Prohibits HUD from fulfilling its obligations under the Fair Housing Act to take action when Americans are discriminated against in the housing market based on their race, color, religion, sex, national origin, disability, or familial status. The disparate impact standard – which has been in operation for decades – does not create liability for a policy or practice simply because it has a disparate impact on a protected group of people. As long as the policy or practice has a legitimate business purpose that cannot be fulfilled by a less discriminatory alternative, then a discriminatory effect (or disparate impact) will not create liability.
- Blocks HUD from administering and enforcing the disparate impact regulation promulgated under the Fair Housing Act, which benefits consumers and the business community alike by clarifying a uniform burden-shifting standard for disparate impact claims. Now, businesses and financial institutions and consumers have a single national standard, when they previously had slightly different burden-shifting standards in the 11 U.S. Circuit Courts that have recognized disparate impact claims since the Fair Housing Act was originally passed in 1968.

For more information, please contact Demelza Baer, Policy Counsel, at 202-715-0807 or DBaer@dcacclu.org.