

A Solution in Search of a Problem:

The Costs and Benefits of Source of Income Discrimination Laws

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Executive Summary

An increasing number of states and cities have Source of Income, or SOI, antidiscrimination laws. These laws prevent landlords from rejecting tenants based on the source of their rental payments. Many of these laws ban any sort of discrimination based on any sort of lawful income used to pay rent, such as different types of job income, alimony, or an inheritance. In reality, almost all of the public focus—and most of the litigation—has concerned so-called discrimination against holders of government housing vouchers for low-income individuals.

There has been little research into the effects of SOI laws. Some studies show that these laws increase the ability of voucher holders to find housing in higher-income neighborhoods or use their vouchers in their allotted time frame. Yet the effects have been extremely modest, and there have been almost no findings on long-term outcomes for the voucher holders themselves. Even less research has been done on the costs of such programs and on how landlords or potential landlords respond to the imposition of these rules and mandates.

This report looks at the evidence on the likely costs and benefits of SOI laws. It argues that the potential benefits indicated by the existing literature are limited and speculative. By contrast, the costs are clear insofar as such laws increase burdens on landlords and housing developers. An abundance of research indicates that increasing the costs for housing developers, owners, and landlords decreases the supply of housing—particularly rental housing. Therefore, SOI laws likely have a negative effect on the supply of housing, especially among small landlords renting to low-income individuals. This report notes, however, that the magnitude of that negative supply effect is unclear.

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The report also shows that, although SOI laws are premised on the idea that alleged “discrimination” against voucher holders is based on prejudice, it is incorrect to treat landlord concerns about the costs of voucher programs as equivalent to other forms of discrimination, especially since the government recognizes that vouchers create costs that go above and beyond those in normal rental agreements. Surveys of landlords and the government’s own sources demonstrate that while some landlords appreciate aspects of the voucher program, such as the regularity of rent payment, many are deterred by what are seen as the bureaucratic requirements of accepting vouchers, which are a more significant problem than the character of voucher holders.

Insofar as policymakers are concerned about the refusal of landlords to accept vouchers, it would be better for the government to reduce the bureaucratic requirements of accepting them and to compensate landlords for perceived costs. To that end, this report offers suggestions for improving acceptance of vouchers, including reducing inspection requirements and increasing rental payments to landlords in neighborhoods with lower poverty rates. Reforming government voucher programs would have a positive impact on the supply and provision of low-income rental housing, while SOI mandates against landlords have a negative impact.

Background

Prior to the 1960s, government agencies were directly responsible for the construction, ownership, and management of public or subsidized housing. Housing vouchers later became a substitute for this kind of public housing program. In 1965, the federal government allowed public housing agencies (PHAs)—local government agencies that distribute or manage federal or other funds—to lease units in the private market and sublease them to low-income individuals. A 1974 act created housing vouchers as part of a more general “Section 8” housing subsidy program, and a 1983 law focused government housing programs on these vouchers and repealed programs to fund direct new construction and substantial rehabilitation of existing units. Landlord participation in the voucher program was voluntary; therefore, vouchers were seen as a market-based substitute for more interventionist government housing programs, as well as a cheaper alternative that alleviated the spiraling costs of direct public housing construction and rehabilitation.¹

Today, voucher holders in the U.S. Department of Housing and Urban Development (HUD) Section 8, or “Housing Choice Voucher” (HCV), program generally pay 30% of their income toward rent and utilities on properties that fall at or below local “fair market rent” levels determined by HUD and the local PHA. The remainder of the rental cost is covered by the government. HUD currently distributes about \$30 billion in HCV voucher funds a year that support 2.3 million households. There are also several smaller federal voucher programs.² Although participation by landlords in the HCV program is voluntary, the use of vouchers is conditioned on government inspections and approvals of units that go above and beyond typical housing code enforcement, which are supposed to ensure the suitability of the property for renters.

At the same time that vouchers became more common, some jurisdictions began passing SOI laws to prohibit landlords from discriminating based on the source of income of renters, including of voucher holders. These statutes are based on the model of fair housing laws that prevented discrimination based on race or other characteristics. Massachusetts was the first to pass an SOI law, including a ban on voucher discrimination, in 1971, followed by five more jurisdictions in the 1970s. Passage of such laws increased in states and cities over the following decades.³

According to a 2023 survey, 23 states currently have some sort of SOI law on the books, although some of these states provide limited protection for voucher holders. More than 100 local jurisdictions have passed SOI protections as well.⁴ Such laws or ordinances are more common in large cities;

of the 10 largest cities in the U.S., six have SOI ordinances. The only four exceptions are cities in Texas. This is because Texas (as well as Indiana) has prohibited localities from adopting SOI voucher ordinances.⁵ Some of these SOI laws apply only to the act of renting property, but other laws encompass any real-estate transaction including insurance and lending.⁶

In recent years, the push for SOI laws has become more general. The American Bar Association resolved in 2017 that federal, state, and local governments should enact SOI laws.⁷ Seven states, including California and New York, have passed SOI laws since 2018. Several congressional bills have been introduced that would prohibit discrimination based on source of income nationwide.⁸

Evidence on the Potential Benefits of SOI Laws

There has been limited research into the effects of SOI laws. Previous surveys of SOI literature have noted this absence and that the literature has not come to firm conclusions. A 2017 survey noted the “paucity of studies surrounding SOI discrimination and anti-discrimination policies” and noted that the “literature on SOI discrimination is still in its infancy.”⁹ A 2019 survey from HUD found that “[r]esearch is mixed on the effectiveness of SOI laws.”¹⁰ Little has changed in the past few years, and the few existing studies that look at possible benefits of SOI laws find modest results.

One of the most typically studied outcomes for SOI laws is their effect on the location of voucher recipients. A common justification for vouchers over project-based assistance (where public funds are tied to particular units rather than traveling with particular households) is that vouchers allow more deconcentration of poverty. In other words, they may allow low-income households to escape areas with high concentrations of poverty. This is especially important because some studies show that children growing up in nonpoor neighborhoods have improved future incomes and life chances.¹¹

The results of studies of SOI laws on location are generally inconclusive. In a finding consistent with the research conducted before and since, one 2013 study found that “the impacts of SOI laws on locational outcomes are mixed.”¹² A study from 2011 found a 1-percentage-point decrease in the poverty rate in tracts of voucher holders due to SOI laws.¹³ Two studies released in 2022 found similarly small effects. One argued that although SOI laws allow existing voucher holders to move to lower-poverty areas, the “effects are modest.” It found that SOI laws led to a 0.6 larger percentage-point decrease in neighborhood poverty rates for existing voucher holders who moved. That finding was concentrated among the subset of existing voucher holders, not new ones who moved in the period studied. The study did not find any change in the share of new voucher holders who moved to neighborhoods with lower poverty rates.¹⁴ Another 2022 study, by the Urban Institute, found that SOI laws led to a 1–2-percentage-point increase in voucher holders with children moving to a low-poverty neighborhood. But the study also found that, in the first years after the SOI law went into effect, the proportion moving to better-off neighborhoods actually declined, and the unambiguous positive effect only occurred eight years after the SOI law was in place. The study also found no connection between the strength of the SOI laws, in terms of their ability to punish landlords, and the percentage moving to low-poverty areas.¹⁵

The other main area of study concerns whether SOI laws increase the ability of voucher holders to find housing. These studies deal with three related issues: the effect of SOI laws on individual landlord acceptance or refusal of voucher holders as potential tenants; the “success rate” of voucher holders in using their vouchers for any property in a designated time frame; and the “utilization rate,” or the ability of a PHA to use all its available voucher funding.

There is some evidence for SOI laws affecting outright landlord refusal to accept voucher holders. A HUD study using paired testing in five cities found that rates of outright voucher denial by landlords in two cities with SOI laws were 15% and 31%. In the other three cities studied, which did not have SOI laws, rates of refusal were over 65%. The study also found somewhat lower discrepancies between refusal rates in low- and high-poverty areas in the two cities with SOI laws versus the others.¹⁶

Yet the refusal of individual landlords to rent to voucher holders would have a substantial effect on voucher holders only if it affected their ability to use the voucher within the time frame set by the PHA—often 60 days.¹⁷ This could be important because many studies have found that significant numbers of individuals do not succeed in using provided vouchers in that set time. A 1993 study found that only about 80% of families succeeded in leasing a unit within the program's time frame. A 2001 study, still frequently relied upon by researchers, found a success rate of 69%, with rates as low as 61% in some tight housing markets. The same study found that SOI laws seemed to lead to higher success rates; curiously, it found that laws with explicit Section 8 protections actually led to lower success rates in terms of leasing a unit within the program's time frame.¹⁸

Even the success rate of voucher holders would have a substantial effect on low-income renters as a whole only if it affected the “utilization rates,” or the number of vouchers used as a proportion of all vouchers available in an area. Since the Section 8 or HCV program has capped funding for each community, the nonuse of a voucher by a family—due, for instance, to being unable to find a location during the set time—can be reappropriated by the local PHA to another family.¹⁹

Claims about SOI impacts on utilization rates are based substantially on one study funded by HUD that argued that utilization rates increased by 4–11 percentage points in cities with SOI laws.²⁰ Yet two important caveats should be added to this study. The first is that the study was based on utilization rates expressed as a percentage of authorized vouchers, not funded vouchers, which is a significant issue since many PHAs have authorized vouchers that they cannot possibly use because of lack of funding. The authorized voucher figure would thus have little relevance to real outcomes.²¹ Equally important, research shows that most housing agencies consistently use about 100% of their voucher funding every year. In 2017, the voucher program utilization rate was 99.9%. The high rate of utilization is due to the fact that most PHAs have long waiting lists and many potential applicants who could use vouchers if a single family does not.²² The high utilization rate indicates that even if SOI laws can improve the success rate for voucher-holding individual families—and there is little research support for this—they will have little effect on voucher use overall.

A much more important predictor of success rates (and thus, in some respects, the utilization rate) is the vacancy rate, or the availability of housing for rent as a proportion of all rental housing. Insofar as SOI laws add to the burden on landlords and reduce the pool of program-participating rental units, the vacancy problem can be exacerbated by SOI laws.²³ Thus, areas where mandated SOI laws could make a difference in utilization—namely, those with low vacancy—are also the areas where a mandate would impose the greatest burdens on landlords because of the tight housing market. Even supporters of SOI laws are aware of this problem. For example, a 2016 journal article supportive of SOI laws notes “significant concerns about requiring voucher acceptance in very high-rent areas where the maximum rent allowances do not coincide with the realities of the housing market.”²⁴

The most that one could say about the research on SOI laws is that they show very limited evidence about positive changes in location for voucher holders and some modest effects on the ability of voucher holders to find rental properties, although those effects need to be balanced by the fact that the utilization rate for vouchers is near-total in most communities. The research does not attempt to show actual outcomes for the issues that policymakers care about, such as changes in income, crime, or the family stability of voucher holders.

Evidence on the Potential Costs of SOI Laws

Although the research into the benefits of SOI has been minimal, there has been almost no research on the potential costs to landlords and potential reductions in rental-housing stock due to SOI burdens. Yet any law that subjects landlords to more mandates and lawsuits, almost by definition, discourages investment in housing. As one sympathetic overview of SOI laws notes: “These laws, like zoning, limit housing suppliers’ ability to provide housing in their preferred manner, and thus may lead to price distortions.” The study also notes an abundance of evidence over decades that housing regulations generally tend to deter housing production and affordability.²⁵

Existing reports of SOI enforcement show that the burden of these laws can be substantial. Although SOI discrimination lawsuits are less common than racial or other types of housing discrimination suits, they can be significant. New York City has filed more than 175 SOI cases against landlords and brokers since 2018. These cases involved up to \$20,000 in “emotional distress” damages to a single person who did not receive housing; requirements that landlords train staff on “NYC Human Rights Law”; and requirements that landlords hold a certain number of properties open just for voucher tenants.²⁶ In Washington, DC, the attorney general won a \$10 million settlement against several real-estate firms and individuals based on voucher discrimination.²⁷ There are also burdens on municipalities that must spend money for SOI enforcement. Last year, New York mayor Eric Adams announced over \$3 million for new SOI testers.²⁸

States and cities are currently expanding the penalties for and liability of landlords and real-estate brokers and making them more subject to lawsuits. In Washington State, a 2018 law made defendants subject to up to four and a half times monthly rent and court costs and attorneys’ fees for SOI discrimination.²⁹ Chicago’s Commission on Human Relations, which enforces the city’s SOI discrimination laws, has allowed burden shifting from the plaintiff to the landlord if the landlord simply did not rent to the plaintiff; allowed plaintiffs who never applied to rent to still sue under a “futile gesture” argument if they propose that the landlord likely wouldn’t have rented to them anyway; and allowed disparate-impact claims based on landlords’ minimum income requirements for renters.³⁰

Court cases have expanded the liability of defendants in some cases. Some federal court cases suggest that discrimination against voucher holders may run afoul of disparate-impact federal Fair Housing Act language.³¹ Courts in California, DC, and Connecticut have also ruled that insurance companies that refuse to cover landlords that do rent to voucher holders are engaged in disparate-impact discrimination.³²

When considering the situation and economics of many landlords in the U.S., even minimal costs could have substantial effects. SOI laws are justified as means to help the impoverished voucher holder at the expense of well-off landlords, but the American landlord class is very diverse. One HUD official found that about 7% of all tax filers report some rental income, making landlords a substantial part of the U.S. population.³³ Approximately 14 million individual investors own one to four rental units and represent, by far, the largest class of landlords. Individuals, as opposed to companies or partnerships, represent almost three-fourths of all owners of such units.³⁴ Many of these individuals do not see substantial returns on their investment. About half of individual landlords reported losses on their property in the relatively booming year of 2018.³⁵

The demographic makeup of landlords is also diverse, making the claim that housing voucher discrimination is an aspect of racial discrimination less compelling. According to one estimate, over 35% of landlords are nonwhite and almost 45% are women.³⁶ Another estimate finds that nonwhite landlords are especially concentrated among owners of two- to four-unit properties, where almost 40% of landlords are nonwhite.³⁷ Racial minorities are likely even more represented among landlords in large cities and among owners subjected to SOI laws. In one HUD survey of landlords in Baltimore, Dallas, and Cleveland, which focused on landlords renting to low-income households and voucher holders, 40% were black and a majority were nonwhite. Some 40% were female.³⁸

The danger of SOI laws for small landlords is more apparent when one realizes that large rental-property owners and managers are more likely to work with voucher holders than smaller-property landlords and managers because of the bureaucratic and other costs of vouchers. Among one-unit properties, 4% accepted vouchers; among two- to four-unit properties, the acceptance rate was 9%. By contrast, for properties with five or more units, 25% or more participated in the voucher program.³⁹ Laws preventing discrimination against voucher holders would therefore burden smaller landlords and smaller properties, by shifting costs onto them from the larger landlords and large properties.

Other research shows that increased use of housing vouchers increases general housing costs. One study found that in the 90 largest metropolitan areas, increased subsidies from housing voucher programs increased demand for housing overall and raised rents among low-income households by 16% on average. The study found that the rent increase for low-income households was larger than the total subsidy that they received from the vouchers.⁴⁰ Expanding the use of such voucher programs by SOI laws could thus have other deleterious effects on low-income renters beyond even the negative supply shock of the burdens imposed on landlords.

The Claim of Landlord Prejudice

The fundamental argument for SOI laws is that landlords' opposition to voucher holders is based not on real-world experience or evaluations of how voucher holders could or could not fit into their housing, but on discrimination unrelated to the costs or benefits of vouchers. Yet there is abundant evidence that vouchers impose real costs on landlords. For some landlords the benefits are sufficient to mitigate the costs; but for many others, they are not.

Extensive research has shown that many landlords are reluctant to accept vouchers, which is occasionally framed as simple "discrimination" in the academic literature. One typical study found "significant amounts of express SOI discrimination" in Craigslist advertisements.⁴¹ Another study, which focused on "a progressive Midwestern city," found that "source-of-income discrimination is perhaps more pervasive" than other types of "discrimination."⁴² Yet the existence of cost and other concerns means that "discrimination" is not a good model for voucher refusal.

Surveys of landlords find that one of the main reasons for the nonacceptance of vouchers is not discrimination against voucher holders but bureaucratic costs. A HUD-funded series of interviews with landlords found that "administrative inefficiencies related to inspection are one of the primary drivers of nonparticipation" in the voucher program. It found that 60% of landlords in Cleveland thought that unit inspection incumbent on landlords accepting vouchers was burdensome and costly. Some 45% of interviewed landlords in Cleveland, and 50% in Dallas, viewed interacting with PHA and bureaucratic hurdles generally as a negative aspect of the program.⁴³

The responses of landlords in this study are not from people who are innately biased against voucher holders, since the large majority of landlords in the survey accepted them. Even among interviewed landlords who did not accept voucher holders, 68% had accepted vouchers in the past and decided to stop. Overall, among those who rejected such voucher holders after previously accepting them, over half cited costly inspections, 41% cited lack of support from PHAs in tenant conflicts, and 41% cited paperwork and bureaucracy. The study found that “most nonparticipants rejected the program not because of a lack of market fit but because of negative experiences with the program.”⁴⁴ The fact that many landlords tell potential renters that they accept vouchers from some PHAs but not others demonstrates that the bureaucratic competence of PHAs is a significant factor for landlords.⁴⁵

Although bureaucratic obstacles are the biggest reason for the failure to accept vouchers, some landlords are not prepared for the type of tenants who use vouchers. The previous referenced study above, where the vast majority accepted voucher holders or were former accepters of voucher holders, found high levels of concern with the tenants. In Cleveland, 45% of respondents thought that voucher holders were more problematic tenants than others. Andrew Greenlee, in a 2014 study based on interviews with 72 landlords in Illinois, found that one issue for landlords was the unknowability of voucher tenants, since they did not have the same landlord references and ability to pay for background checks as other tenants. In this way, voucher holders presented risks to landlords that were not common among non-voucher holders.⁴⁶

The particular types of HCV leases mandated by HUD and PHAs can be a deterrence to landlords as well. While several landlords require tenants to pay the last month’s rent in addition to a month’s rent as a security deposit, voucher leases typically have no such requirement.⁴⁷ The addendum to the voucher lease provided by HUD limits the ability of landlords to decline to reissue a lease, which, especially when combined with the possibility of SOI lawsuits, can make it difficult to switch tenants.⁴⁸

One indication of the costs of vouchers to landlords is that even many public policymakers who support vouchers have acted to accommodate landlord concerns about them. In 1998, Congress repealed the “take one, take all” provision of Section 8, which had required landlords who took one voucher holder to take others as well. The change was an obvious recognition that landlords, even those willing to rent to voucher holders, might want to limit the costs of accepting them or limit their mix in their properties.⁴⁹ Oregon and Washington State have created programs that can provide landlords thousands of dollars in reimbursement due to damage from voucher holders, which is, again, a recognition that tenant quality can be a problem.⁵⁰

Court cases interpreting SOI laws have refused to allow the economic burden on landlords to be a reason for them to deny a voucher holder tenancy, even while recognizing those burdens. In 2022, the Connecticut Supreme Court found a real-estate broker and an independent contractor liable for SOI discrimination for statements indicating that they were concerned with the bureaucratic delay in application approval typical for Section 8 vouchers. The court claimed that the goal of the statute was “to protect against the ‘psychic injury,’” although it is hard to understand what psychic injury could be caused by statements about delay in processing paperwork.⁵¹ A Massachusetts Supreme Court case stated that “substantial economic harm” to a landlord could not create an exception to SOI laws. In that case, a state-administered lease allowed a tenant to break the lease with one month’s notice under certain conditions and required government access to the landlord’s premises and records for audits. These are conditions clearly above the requirement for a typical lease and that clearly impose economic costs, but any objection to them was treated as discrimination.⁵²

Some landlords note benefits to voucher tenants, such as regularity of payments, but there are extensively documented and widely reported costs to landlords of accepting voucher holders as well as extensively documented landlord concerns with the voucher program, including among

those who do accept or have accepted vouchers. These costs and concerns demonstrate that the refusal of some landlords to accept all vouchers, including the landlords who limit the number of voucher holders whom they accept, is not just “a mask for racial discrimination,” as one *Time* magazine headline argued.⁵³

Conclusion and Recommendations

The government acknowledges problems with the existing voucher programs.⁵⁴ It is incumbent on the government, whether at the local, state, or federal level, to fix these problems before relying on lawsuits to punish landlords who would be legally forced to endure the acknowledged costs.

Reduce the Burden of Vouchers on Landlords

Local PHAs have significant power to increase the voluntary acceptance of vouchers by focusing on the retention of existing landlords in their programs and conducting outreach to new landlords who might want to participate. Some are finding ways to improve the preparation of tenants. For instance, the St. Louis Housing Authority has partnered with outside groups to do prescreening and counseling of tenants, and it provides staff assistance in completing paperwork.⁵⁵ The work by some places to reimburse landlords for damages by voucher tenants can also increase acceptance of the program. One recent master’s thesis compared areas that introduced SOI laws and landlord incentives and found that “landlord incentives are a more effective tool at increasing voucher utilization than Source of Income laws.”⁵⁶

Annual inspections for leases are a common source of complaint among landlords that local PHAs could remedy. The HUD study of landlords found that “the capriciousness of Housing Quality Standards inspections was a sentiment felt by nearly all the respondents in our sample.”⁵⁷ Even more important, if inspections or approvals are slow, the lost month or more of rent can be determinative for a landlord. Some landlords complain of waiting for months to get approval for a tenant, when they could lease on the market in weeks.⁵⁸ To improve voucher acceptance, local PHAs could train all inspectors to ensure consistency in standard application and maintain set times for all inspections.

At the federal level, HUD could clarify and reduce the burdens of its own inspection standards. Currently, HUD requires PHAs to enforce performance requirements on 13 separate Housing Quality Standards, including standards on the “thermal environment” and the condition of the neighborhood, which cannot have “disturbing noises” or excessive “vehicular traffic.”⁵⁹ Vague standards and standards that are above and beyond typical housing codes should be removed.

Reform Payment Methods to Increase Use of Vouchers

A fundamental insight of economics is that almost any perceived cost can be offset with sufficient benefits. If the government is concerned about discrimination against voucher holders, especially in nonpoor neighborhoods, or a low voucher success rate affecting a PHA’s ability to use available funding, it can compensate landlords enough to offset any perceived cost. In 2016, HUD completed a rule requiring the use of what are known as “Small Area Fair Market Rents” for calculating voucher payments in certain metropolitan areas, especially those where voucher holders were concentrated in high-poverty neighborhoods. This rule gave voucher holders increased rental payments in higher-cost zip codes, with the goal of facilitating moves to lower-poverty neighborhoods and deconcentrating poverty.⁶⁰

While research on SOI laws has shown little impact on moving voucher holders to neighborhoods with lower poverty rates, research has shown stronger impacts of higher payment rates on such use. A study of an early location-based voucher-rate reform in Dallas showed about a quarter of a standard deviation increase in the neighborhood quality of new voucher leases. The reform was budget-neutral because the increase in rents in high-cost neighborhoods was offset by decreases in rents in the other neighborhoods.⁶¹

If a PHA's concern is success rates and not locations, PHAs can increase available Fair Market Rents generally to widen the scope of available units. HUD now allows approval of voucher rent up to 120% of local Fair Market Rent for the purpose of finding housing outside high-poverty areas, or if the PHA has concerns about the success rate.⁶² Likewise, if there are concerns about low utilization, which, as previously noted, is rarely an issue, local PHAs can overissue vouchers to eligible families with the understanding that some will not succeed in using them, thus ensuring a 100%, or sometimes greater, utilization rate. Some PHAs already do so.⁶³

At the federal and local levels, the government can improve the likelihood that vouchers go to their legally intended recipients. A 2023 HUD Office of Inspector General report found that for the previous six years, HUD had not reported improper payment estimates for the voucher rental assistance program and was out of compliance with federal laws on deterring improper payments. The improper payment rate is likely significant because HUD “did not conduct monitoring reviews to detect, prevent, and recover improper payments” in the program.⁶⁴ Another inspector general report, from 2019, found that HUD continued sending rental benefits to hundreds of tenants after they had died, as well as to thousands who were ineligible, in just one year.⁶⁵ Some of the problem with improper payments has to do with minimal vetting of recipients by PHAs. With years-long waiting lists in many cities, improving PHA and HUD performance on proper payments would get vouchers to those who need them and would cut down on fraud.

Reducing the Burden of SOI Laws

Considering the substantial alternatives that exist to SOI laws—which amount to mandates that landlords accept unlimited numbers of voucher holders—and the fact that “discrimination” is not a suitable framework for considering whether landlords refuse vouchers, cities and states that do not have such laws should not adopt them. Those cities and states that do have them should repeal them. At the very least, jurisdictions with SOI laws should clarify that the economic burden on landlords is a legitimate defense to a claim of voucher “discrimination,” especially when the economic burden is significant. More states should consider the route of Texas and Indiana and ban cities from implementing SOI laws or ordinances.

SOI discrimination laws have, at best, a mixed track record, but they add obvious costs to landlords who want to participate in renting to the low-income market. Previous research has shown that burdens on landlords can lead many landlords to exit the market; and insofar as SOI laws add to that burden, they have the same effect.⁶⁶ Although the magnitude of the negative effect of SOI laws is unknown, in areas with older housing stock and little expectation for near-term value appreciation, there is a particular danger that SOI discrimination laws could lead small landlords to take existing units out of the market or developers to decrease the production of new rental units.

Given that most large metropolitan areas have hundreds or thousands of landlords renting to the low-income or voucher-holding population, it would be much better for the government to find ways to remove burdens on these landlords, instead of adding to an already significant pile of them.

About the Author



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- ¹⁶ Philip Garboden et al., “Urban Landlords and the Housing Choice Voucher Program: A Research Report,” U.S. Office of Policy Development and Research, HUD, May 30, 2018, 22–26.
- ¹⁷ Being refused a rental opportunity could affect renters’ ability to live in the house or neighborhood of their choice, but, as noted above, there seems to be little impact of SOI laws on living in low-poverty neighborhoods, and refusals by some landlords to rent to tenants are not uncommon even for non-voucher holders.
- ¹⁸ Meryl Finkel and Larry Buron, “Study on Section 8 Voucher Success Rates,” *Quantitative Study of Success Rates in Metropolitan Areas* 1 (Washington, DC: HUD Office of Policy Development and Research, 2001), 9, 12, 36; Tighe, Hatch, and Mead, “Source of Income Discrimination and Fair Housing Policy.”
- ¹⁹ Only about 25% of people eligible for vouchers receive them, which explains the very long waiting list. Gramlich, “Housing Choice Vouchers.”
- ²⁰ Freeman, “The Impact of Source of Income Laws on Voucher Utilization and Locational Outcomes,” ix.
- ²¹ Bell, Sard, and Koepnick, “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results.”
- ²² Douglas Rice, “Agencies Generally Use All Available Voucher Funding to Help Families Afford Housing,” Center on Budget and Policy Priorities, Mar. 4, 2019; Bell, Sard, and Koepnick, “Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results.”
- ²³ Rice, “Agencies Generally Use All Available Voucher Funding to Help Families Afford Housing.” Many cities have had much lower utilization rates for the Emergency Housing Voucher (EHV) program created as part of the federal government’s Covid-19 response, but that has had more to do with the large number of potential vouchers created and a particular focus on homeless individuals with more problems navigating housing rather than discrimination against voucher holders per se. As HUD noted, the program leased units at a rate faster than any previous housing voucher program. “HUD Marks Major Milestone for American Rescue Plan’s Emergency Housing Voucher Program,” U.S. Interagency Council on Homelessness, press release, Oct. 25, 2022; Brandon Block, “Housing Vouchers Sit Unused at Some Rural Washington Agencies,” *Crosscut Cascade*, Nov. 3, 2022.



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- 30 Schwemm, “Source-of-Income Discrimination and the Fair Housing Act,” 601.
- 31 Ibid., 603–5.
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- 33 “Landlords,” HUD User, June 11, 2018.
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- 39 Cororaton, “Landlord Statistics from the 2018 Rental Housing Finance Survey.” For different estimates, albeit with the same general tendency, see Laurie Goodman, Karan Kaul, and Michael Stegman, “Leveraging Financing to Encourage Landlords to Accept Housing Choice Vouchers,” Urban Institute, September 2022, 6. Some laws, such as New York’s, have SOI exceptions for owner-occupants or other small landlords.
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- ⁶⁰ Office of the Secretary, HUD, “Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs,” Pub. L. No. 2501-AD74, 81 FR 80567 Rule (Nov. 16, 2016). Some PHAs pay so much over market rent that they significantly reduce of the availability of funds for other possible recipients and increase private-sector rents as well. Tailoring rent more directly to the needs of the market and neighborhood is essential to maximizing the benefits of the program. See Steve Thompson and Dalton Bennett, “D.C. Overpays Landlords Millions to House the City’s Poorest,” *Washington Post*, Feb. 16, 2023.
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- ⁶⁵ “HUD Paid Rental Subsidies to Benefit Public Housing and Voucher Tenants Reported as Excluded from Federal Programs or Deceased” (Kansas City, KS: Office of Inspector General, June 25, 2019). Investigators at the Office of Inspector General blamed the problem on HUD not giving PHAs access to the federal Do Not Pay system, and it is unclear as to whether this has been fully fixed since the report was issued in 2019.
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