



# We the People

## LGBT Americans and Housing

By Sharita Gruberg March 10, 2015

The location where one lives affects a number of well-being and stability indicators, from access to quality schools to economic opportunities. The role of housing on a person's well-being is so critical that a recent *New England Journal of Medicine* article argued that housing is health care.<sup>1</sup> Unfortunately, in 29 states, it is legal to deny lesbian, gay, bisexual, and transgender, or LGBT, individuals housing solely because of their sexual orientation or their gender identity. In other words, there are 16 states where a same-sex couple can marry but still be denied the opportunity to purchase a home to begin their lives together simply because of whom they love.

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### Examples of discrimination

Housing discrimination takes many forms, from a landlord verbally harassing tenants because of their sexual orientation or gender identity to a realtor outright refusing to sell a home to a same-sex couple.

- The Department of Housing and Urban Development, or HUD, found different-sex couples were favored over similarly situated same-sex couples in approximately 15 percent of rental market tests.<sup>2</sup>
- A Michigan study found same-sex couples experienced discrimination in 27 percent of housing rental, sales, and financing tests.<sup>3</sup>
- The National Transgender Discrimination Survey found 19 percent of respondents were refused a home or apartment and 11 percent had been evicted because of their gender identity.<sup>4</sup>

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### Current protections

The Fair Housing Act is the principle mechanism for enforcing fair housing laws. It prohibits discrimination on the basis of race, religion, national origin, sex, and disability status in the sale, rental, or financing of housing, and it enhanced enforcement mechanisms to combat such discrimination. However, it does not explicitly protect against discrimi-

nation based on sexual orientation or gender identity. HUD interprets the Fair Housing Act to include sexual orientation and gender identity, and its “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity” rule makes it illegal to discriminate against LGBT individuals and families in all housing funded by HUD or insured by the Federal Housing Administration.<sup>5</sup> Eighteen states explicitly ban discrimination based on sexual orientation and gender identity in housing.<sup>6</sup>

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## Recommendations

- Congress should pass a comprehensive nondiscrimination bill banning discrimination based on sexual orientation and gender identity in employment, public accommodations, housing, credit, and federal funding.
- Congress and state legislatures should appropriate necessary funds for full enforcement of nondiscrimination protections.
- While updating the law to protect LGBT people from discrimination in the rental, purchase, or financing of homes won’t end unfair treatment overnight, it will provide a tool to ensure all people, including LGBT people, are treated fairly and equally.

*Sharita Gruberg is a Senior Policy Analyst on the LGBT Research and Communications Project at American Progress.*

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## Endnotes

1 Kelly M. Doran, Elizabeth J. Misa, and Nirav R. Shah, “Housing as Health Care—New York’s Boundary-Crossing Experiment,” *The New England Journal of Medicine* (369) (2013): 2374–2377, available at <http://www.nejm.org/doi/full/10.1056/NEJMp1310121>.

2 Office of Policy Development and Research, *An Estimate of Housing Discrimination Against Same-Sex Couples* (U. S. Department of Housing and Urban Development, 2013), available at [http://www.huduser.org/vportal/publications/pdf/Hsg\\_Disc\\_against\\_SameSexCpls\\_v3.pdf](http://www.huduser.org/vportal/publications/pdf/Hsg_Disc_against_SameSexCpls_v3.pdf).

3 Fair Housing Center of Metropolitan Detroit and others, “Sexual Orientation and Housing Discrimination in Michigan” (2007), available at [http://www.fhcmichigan.org/images/Arcus\\_web1.pdf](http://www.fhcmichigan.org/images/Arcus_web1.pdf).

4 Jaime M. Grant, Lisa A. Mottet, and Justin Tanis, “Injustice at Every Turn: A Report of the National Transgender Discrimination Survey” (Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011), available at [http://www.thetaskforce.org/static\\_html/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf).

5 24 C.F.R. pts. 5, 200, 203, 236, 400, 570, 574, 882, 891, 982 (2012).

6 Movement Advancement Project, “Non-Discrimination Laws,” available at [http://www.lgbtmap.org/equality-maps/non\\_discrimination\\_laws](http://www.lgbtmap.org/equality-maps/non_discrimination_laws) (last accessed March 2015).

This document was compiled from material in Chapter 5 of the CAP report, “We The People: Why Congress and the U.S. States Must Pass Comprehensive Nondiscrimination Protections.”