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MORTGAGES

HUD Combats Discrimination

By **[BOB TEDESCHI](#)**

IN recent years, state and local governments have enacted laws to combat discrimination against lesbian, gay, bisexual or transgendered people seeking mortgages and housing. Now the federal government is poised to do the same with regulations that would cover loans backed by the [Federal Housing Administration](#).

The new initiative was welcomed by legal advocates, who say that so far, laws have largely failed to address the issue adequately. Some in the mortgage industry, meanwhile, contend that such discrimination is rare.

In an announcement last month, [Shaun Donovan](#), the secretary of Housing and Urban Development, said that his staff would soon propose a rule that would specify, among other things, that any F.H.A.-insured mortgage must be based on the creditworthiness of a borrower and not on unrelated factors like sexual orientation.

In describing the need for such regulations, HUD pointed to a 2007 study conducted by Michigan's Fair Housing Centers, which found that nearly 30 percent of same-sex couples were treated differently by real estate or mortgage professionals than heterosexual couples.

Mr. Donovan, who was [New York City](#)'s commissioner of housing and development before joining the Obama administration, said that HUD had also commissioned what it characterized as the first national study of housing discrimination against gay, lesbian, bisexual and transgendered people.

Through a HUD spokesman, Mr. Donovan declined to comment on specifics of the proposed antidiscrimination rule before it is published. Once the proposal is made public, HUD will seek comments from the public before locking in the regulation.

Pamela Kisch, who helped administer Michigan's Fair Housing Centers study, said in a telephone interview that federal regulations would help to establish some measure of protection in Michigan and other states that do not have state laws specifically addressing discrimination on the basis of sexual orientation.

Since 2003, New York has barred such discrimination through the Sexual Orientation Non-Discrimination Act, known as Sonda.

According to Galen D. Kirkland, New York's human rights commissioner, 103 discrimination complaints have been filed under that law, including 24 so far this year. None, though, involves a mortgage applicant.

Mr. Kirkland said the paucity of complaints "partly has to do with the number of people who are aware they

have this protection, and frequently, people don't know when they're being discriminated against."

But Jim Pair, the president of the National Association of Mortgage Brokers, called the new HUD rules unnecessary. "I can understand they want to make sure there's no discrimination," he said, "but I haven't heard of any and I haven't seen any."

"As brokers," he added, "we live in the community, and these are people we know, and we've got to face them everyday in grocery stores, in our schools and businesses, and you just can't discriminate and expect to stay in business. I wouldn't."

STILL, Matthew Faiella, a lawyer with the [New York Civil Liberties Union](#), which sometimes represents plaintiffs in discrimination suits, says that these types of discrimination cases can be hard to prove. "The 'he said/she said' things that go on are really difficult in these kinds of cases," he said.

"It's definitely an issue in New York, particularly when it comes to transgendered people," Mr. Faiella added, "because there's so much rampant discrimination against them."

The new federal rules, he said, would at the very least raise awareness that discriminatory practices are illegal, as will the government's study. "Having the federal government catching people in the act of discriminating is really important," he said.

"It's nearly impossible for an advocacy organization to gather the resources to do that."

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