



# Issue Fact Sheet

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## FAIR HOUSING TESTING PROGRAMS

### Background

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended (Fair Housing Amendments Act), makes it unlawful to discriminate in the sale, rental advertising or financing of most housing based on race, color, religion, sex, handicap, familial status and national origin. Testing for compliance with the Fair Housing Act is a common tool used by federal, state and local enforcement agencies to identify and remedy housing discrimination practices.

Through the Fair Housing Initiatives Program (FHIP), the federal government funds a range of investigative and enforcement activities as well as education and outreach services via contracts with private non-profit fair housing organizations. FHIP is a competitive grant program, and fair housing advocates have long criticized the funding levels as inadequate to effectively have a positive impact on decreasing discrimination in housing. In FY 2011, lawmakers appropriated \$40 million to fund FHIP's three programs—private testing, education and outreach, and the fair housing organization initiative. The private testing program received \$26 million.

Most apartment properties have likely been the target of a test at some time. The tests are sometimes complaint-based, i.e., follow-up activity as part of an investigation because of an actual complaint from someone who felt they were the victim of discrimination. In other cases, random tests are used by private fair housing organizations to gauge a property's compliance with federal and state laws. This random but targeted type of testing was used as the basis for multiple lawsuits involving large apartment owners alleging failure to design and construct for accessibility.

### NMHC/NAA Position

NMHC/NAA are committed to the spirit and letter of the law relative to the Fair Housing Act. Member companies expend significant time and resources to train staff on the laws and litigation trends.

Testing programs and practices are not always reliable measures of compliance in the industry. In many cases, they are ineffective, inefficient and unfair to the property owner. In an effort to root out discrimination, testing programs can be more effective if they're limited to complaint-based targets and more emphasis is placed on education.

### Current Status

Representative Al Green (D-TX) has reintroduced a bill (H.R. 284, the Veteran's, Women, Families with Children, and Persons with Disabilities Housing Fairness Act of 2011) that would create and implement a National Fair Housing Testing program funded at \$15 million per year for four years. It would also significantly increase funding for FHIP. In response to testimony by NMHC/NAA citing a lack of uniformity in the existing testing program, the bill includes more favorable language to require HUD to issue rules within 180 days of enactment to set minimum tester training standards. It is unclear whether the House will act on the measure.

### Relevant Committees

House Committee on Financial Services  
Senate Committee on Banking, Housing, and Urban Affairs

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