

105TH CONGRESS  
1ST SESSION

# S. 458

To provide for State housing occupancy standards, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 18, 1997

Mr. FAIRCLOTH (for himself, Mr. KYL, Mr. WARNER, Mr. LUGAR, Mr. SHELBY, Mr. INHOFE, Mr. BENNETT, Mr. CRAIG, Mr. ENZI, and Mr. HAGEL) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide for State housing occupancy standards, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TREATMENT OF OCCUPANCY STANDARDS.**

4 (a) NATIONAL STANDARD PROHIBITED.—During the  
5 5-year period beginning on January 1, 1997, the Secretary  
6 of Housing and Urban Development shall not directly or  
7 indirectly establish a national occupancy standard.

8 (b) STATE STANDARD.—If a State establishes an oc-  
9 cupancy standard before the expiration of the period de-  
10 scribed in subsection (a)—

1           (1) such standard shall be presumed reasonable  
2           for the purpose of determining familial status dis-  
3           crimination in residential rental dwellings; and

4           (2) the Secretary shall not suspend, withdraw,  
5           or deny certification of any State or local public  
6           agency based in whole or in part on that State occu-  
7           pancy standard or its operation.

8           (c) ABSENCE OF STATE STANDARD.—If a State fails  
9           to establish an occupancy standard in accordance with this  
10          section before the expiration of the period described in  
11          subsection (a), an occupancy standard of 2 persons per  
12          bedroom established by a housing provider shall be pre-  
13          sumed reasonable for the purpose of determining familial  
14          status discrimination in residential rental dwellings.

15          (d) DEFINITION.—

16               (1) GENERAL RULE.—Except as provided in  
17               paragraph (2), the term “occupancy standard”  
18               means a law, regulation, or housing provider policy  
19               that establishes a limit on the number of residents  
20               a housing provider can properly manage in a dwell-  
21               ing for any 1 or more of the following purposes—

22                       (A) providing a decent home and services  
23                       for each resident;

1           (B) enhancing the livability of a dwelling  
2           for all residents, including the dwelling for each  
3           particular resident; and

4           (C) avoiding undue physical deterioration  
5           of the dwelling and property.

6           (2) EXCEPTION.—The term “occupancy stand-  
7           ard” does not include a Federal, State, or local re-  
8           striction regarding the maximum number of persons  
9           permitted to occupy a dwelling for the sole purpose  
10          of protecting the health and safety of the residents  
11          of a dwelling, including building and housing code  
12          provisions.

13          (e) PURPOSEFUL DISCRIMINATION.—Purposeful dis-  
14          crimination on the basis of race, color, religion, sex, famil-  
15          ial status, handicap, or national origin is not affected by  
16          this section.

17          (f) EFFECTIVE DATE.—This section shall be con-  
18          strued to have become effective on January 1, 1997.

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