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Before the Ohio House
Financial Institutions, Housing, and Urban Development Committee
Written Testimony Opposing House Bill 282

Chairman Dever, Vice Chair Sprague, Ranking Member Smith, and Members of the Ohio House
Financial Institutions, Housing, and Urban Development Committee:

We write to you today as Ohioans, community members, and advocates from across the state to voice our collective opposition to House Bill 282. The changes to the law proposed in HB 282 should not be enacted because they are unnecessary, are likely preempted by federal law, interfere with local communities' ability to determine local needs, present additional barriers to successful reentry for formerly-incarcerated individuals, contradict federal fair housing guidelines governing Public Housing Authorities (PHAs), and place an additional burden on PHAs. Please allow us to explain each of these concerns in greater detail.

HB 282 would not provide any additional right or protection for PHAs to deny tenancy to applicants with objectionable rental histories or criminal behavior.

The Code of Federal Regulations accords PHAs discretion to establish eligibility requirements for housing assistance (i.e. admission to public housing or the provision of housing subsidy through the Housing Choice Voucher Program (HCVP)). 24 CFR § 960.203(c) sections 2 and 3 governing public housing specify that those standards may include consideration of the applicant's "record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences which may adversely affect the health, safety or welfare of other tenants;" and "history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants." respectively. 24 CFR § 982.553 provides similar discretion to PHA's in the HCVP. PHA's already have the discretion to deny housing assistance based upon past behavior and the legislature should leave this decision making to local officials to exercise their discretion.

HB 282 is likely to create conflict between federal and state law and may be preempted.

Because HB 282 would prohibit the PHAs from renting to anyone who was convicted of or pleaded guilty to criminal mischief for a period of three years, state law would deprive PHAs of their right of discretion in determining applicant eligibility as outlined above. Further, 24 CFR § 982.552 requires that PHAs consider mitigating circumstances surrounding criminal history when denying or terminating the tenancy of someone with a disability or an individual who may otherwise be protected under the Fair Housing Act or the Violence Against Women Act. If HB 282 were enacted, it may place Ohio PHAs

in the position of having to either violate federal or state law. Finally, with respect to consideration of criminal history in tenant screening, guidance from HUD's Office of General Counsel calls for an individualized assessment and specifies that housing providers, including PHAs, may run afoul of the Fair Housing Act if they refuse to consider mitigating information. HB 282 would prohibit such an individualized assessment and, thus, subject housing providers to possible liability under the Fair Housing Act. All of these concerns can be avoided by not passing HB 282.

The state should not interfere with local communities' federally endowed right to determine the most effective local approaches to administering their programs.

PHAs across the state have adopted local criteria and local strategies for assisting residents in need of housing assistance. Some PHAs have determined that the community is best served with support rather than punishment and have engaged the assistance of the local courts and other community partners when needed to avoid criminal prosecution, prioritize family stability, and recover costs through other means. Others have determined that the needs of the community are best served with fewer restrictions and a more nuanced assessment of eligibility for housing assistance. The costs to these communities, both financial and social, must be considered.

HB 282 will present additional barriers to successful reentry for formerly-incarcerated individuals and contravene much of the effective reentry advocacy work being undertaken throughout the state.

As communities throughout Ohio are working to facilitate successful reentry, family stability, and family reunification, such legislation impedes their ability to make decisions locally and on an individualized basis regarding housing. [The Ohio Department of Public Safety's Office of Criminal Justice Services](#), citing the Ohio Ex-Offender Reentry Coalition's 2010 Annual Report indicates: "It is estimated that in Ohio, over 26,000 adults and 800 juvenile offenders will be released from institutions during the next year. Their successful reintegration to the community is important not only for offenders and their families, but also to the quality of life of communities throughout Ohio." Added criminal convictions and possible attendant incarceration will result in job loss, housing instability and family insecurity. In addition, they will create additional barriers to employment and housing. Because stable housing is so critical to reducing recidivism, limiting access to public housing and the HCVP for a period of three years is likely to increase rates of recidivism.

HB 282 would create an additional burden on PHAs.

PHAs would be burdened to engage in additional screening and to deny housing assistance for a period of three years regardless of whether or not it was consistent with their local needs and priorities. In 2011, [HUD issued a letter to PHAs](#) urging them to reduce the collateral consequences in public housing and the HCVP for formerly incarcerated individuals and encouraged PHAs to reevaluate their screening criteria with an eye toward second chances and family reunification. The 2015 convening of the [Ohio Housing Authorities Conference](#) was dedicated to rethinking reentry housing opportunities within PHAs and profiled reentry housing programs from throughout the state including both urban and rural community strategies. HB 282 will contravene local initiatives and statewide priorities.

Additionally, this legislation will impose additional costs on our county and state criminal justice systems. This legislation will also significantly impact the foster care system if heads of households are convicted under this law. For these reasons, and for so many more, we urge you to vote “No” on HB 282.

Respectfully,

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