



THE MARYLAND HOUSE OF DELEGATES ANNAPOLIS, MARYLAND 21401

Chair Clippinger and Members of the House Judiciary Committee:

Delegate J. Sandy Bartlett, District 32.

FAVORABLE – HB392 – EVIDENCE – INTERCEPTION OF ORAL COMMUNICATIONS – FAIR HOUSING TESTING

I have the honor of introducing House Bill 392. The bill pertains to the submission of audio recording evidence in fair housing testing cases. Currently, Maryland's fair housing testers may not make an audio recording of an interaction with a landlord or seller because Maryland law requires the consent of everyone in the conversation. We are a "two-party consent" state. If the tester were to make an audio recording, even if there is housing discrimination, their recording would be inadmissible in court, and they would be subject to felony charges.

The FAIR HOUSING ACT OF 1968 prohibits housing discrimination and came as a follow up to the Civil Rights Act of 1964. The Fair Housing Act of 1968 prohibits discrimination in housing because of race, color, national origin, religion, sex (including gender identity and sexual orientation), disability, or familial status. The Office of Housing and Urban Development (HUD) provides the history of the Fair Housing Act of 1968, how it came about and why we have it.¹ Congress passed the Fair Housing Act of 1968 in the wake of Dr. Martin Luther King's assassination and the Vietnam War. Young poor African Americans and Hispanic infantrymen came home from Vietnam to find discrimination, and they could not purchase or rent homes. The Fair Housing Act of 1968 sought to reduce discrimination against people seeking to satisfy their basic need of having a place to live.

This legislation is necessary because Fair housing testers play an integral role in ensuring that Marylanders have a fair and equitable housing market. Currently,

¹ https://www.hud.gov/program_offices/fair_housing_equal_opp/aboutfheo/history.

fair housing testers in Maryland handwrite their notes during and after a fair housing test. Not only is this process, outdated, and not the best evidence, it limits the ability to capture the entire, potentially discriminatory nature of the communication.

HB392 exempts fair housing testers from the two-party consent requirement. The admissible portion of the recorded communication must be relevant to the enforcement of federal, state, or local fair housing laws.

In closing, I want to emphasize that this body will hear another bill to create an exception to the two-party consent requirement in cases of domestic violence. I am a co-sponsor for that bill, and I strongly believe and urge the committee to pass both bills because we should protect the discriminated as well as the abused. A government is only as strong as the protections we put in place for our residents. For these reasons, I urge a fair and favorable report on this bill.