



Bill: **HB 392 - Evidence - Interception of Oral Communications - Fair Housing Testing**

Committee: **Judiciary**

Date: **February 4, 2025**

Position: **Unfavorable**

The Apartment and Office Building Association (AOBA) of Metropolitan Washington is a non-profit trade association representing the owners and managers of more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's counties. AOBA submits the following testimony in opposition to House Bill 392.

HB 392 allows for the interception of a wire, oral or electronic communication by an individual so long as the person is working as a fair housing tester for such a program operated by the Federal Government, the State, local government or non-profit civil rights organization. Additionally, that person must be a party to the communication and the interception is for the purpose of obtaining a fair housing violation under federal, state or local law.

While AOBA members agree that it's important to combat and preventing housing discrimination, members have serious concerns with allowing their staff to be secretly recorded by any government official or a non-profit employee as set forth in Senate Bill 107.

Privacy of Individuals: The most immediate danger is the undermining and invasion of individuals' fundamental right to privacy. Two-party consent laws are key to safeguarding individual's ability to maintain control over their personal or business information. In addition, entry level, frontline employees would be most at risk of having their careers or reputations ruined by secret recordings that may have been taken out of context.

Confusion in Legality: There is no question that the lack of clear guidelines and conflicting state and federal laws will increase litigation as individuals and organizations challenge recordings made without

the consent of all parties. This will over burden the courts and increase legal costs for housing providers at a time when they are struggling to keep up with rising operating expenses.

Slippery Slope: Weakening the state's two-party consent laws creates a slippery slope. Should housing providers be able to record nuisance tenants to aid in eviction cases? Should patients be able to record health care professionals to prove medical malpractice claims?

Fortunately, there are already ways to prevent or document housing discrimination, including written communication and firsthand testimony. For these reasons, AOBA urges an unfavorable report on House Bill 392.