

# HOUSE BILL 392

D1, C9  
HB 392/24 – JUD

5r1873  
CF SB 107

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By: **Delegates Bartlett, Hill, Simmons, Stewart, and Young**

Introduced and read first time: January 16, 2025

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Evidence – Interception of Oral Communications – Fair Housing Testing**

3 FOR the purpose of providing that it is lawful for a person to intercept an oral  
4 communication if the person is working as a fair housing tester for a certain fair  
5 housing testing program under certain circumstances; and generally relating to  
6 electronic surveillance.

7 BY adding to

8 Article – Courts and Judicial Proceedings

9 Section 10–401(13) and 10–402(c)(12)

10 Annotated Code of Maryland

11 (2020 Replacement Volume and 2024 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – Courts and Judicial Proceedings

14 Section 10–401(13) through (18)

15 Annotated Code of Maryland

16 (2020 Replacement Volume and 2024 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

18 That the Laws of Maryland read as follows:

19 **Article – Courts and Judicial Proceedings**

20 10–401.

21 As used in this subtitle the following terms have the meanings indicated:

22 **(13) “NONPROFIT CIVIL RIGHTS ORGANIZATION” MEANS:**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (I) A QUALIFIED FAIR HOUSING ENFORCEMENT  
 2 ORGANIZATION OR A FAIR HOUSING ORGANIZATION AS DEFINED UNDER 24 C.F.R. §  
 3 125.103; OR

4 (II) AN ORGANIZATION INCORPORATED UNDER MARYLAND  
 5 LAW AS A PRIVATE, TAX-EXEMPT CIVIL RIGHTS ORGANIZATION THAT HAS AT LEAST  
 6 2 YEARS' EXPERIENCE IN:

7 1. COMPLAINT INTAKE;

8 2. COMPLAINT INVESTIGATION; AND

9 3. TESTING FOR FAIR HOUSING VIOLATIONS OR  
 10 ENFORCEMENT OF MERITORIOUS CLAIMS.

11 [(13)] (14) (i) "Oral communication" means any conversation or words  
 12 spoken to or by any person in private conversation.

13 (ii) "Oral communication" does not include any electronic  
 14 communication.

15 [(14)] (15) "Person" means any employee or agent of this State or a political  
 16 subdivision thereof, and any individual, partnership, association, joint stock company,  
 17 trust, or corporation.

18 [(15)] (16) "Readily accessible to the general public" means, with respect to  
 19 a radio communication, that the communication is not:

20 (i) Scrambled or encrypted;

21 (ii) Transmitted using modulation techniques the essential  
 22 parameters of which have been withheld from the public with the intention of preserving  
 23 the privacy of the communication; or

24 (iii) Except for tone-only paging device communications, transmitted  
 25 over frequencies reserved for private use and licensed for private use under federal or State  
 26 law.

27 [(16)] (17) "Telephone solicitation theft" means conduct of a person that:

28 (i) Constitutes the offense of theft or attempted theft; and

29 (ii) Involves the use of a telephone to solicit the payment of money.

30 [(17)] (18) "User" means any person or entity that:

- 1 (i) Uses an electronic communication service; and
- 2 (ii) Is duly authorized by the provider of the service to engage in that
- 3 use.

4 [(18)] (19) "Wire communication" means any aural transfer made in whole

5 or in part through the use of facilities for the transmission of communications by the aid of

6 wire, cable, or other like connection between the point of origin and the point of reception

7 (including the use of a connection in a switching station) furnished or operated by any

8 person licensed to engage in providing or operating such facilities for the transmission of

9 communications.

10 10-402.

11 (c) (12) (I) IT IS LAWFUL UNDER THIS SUBTITLE FOR A PERSON TO

12 INTERCEPT AN ORAL COMMUNICATION IF:

13 1. THE PERSON IS WORKING AS A FAIR HOUSING TESTER

14 FOR A FAIR HOUSING TESTING PROGRAM OPERATED BY:

15 A. THE FEDERAL GOVERNMENT;

16 B. THE STATE;

17 C. A LOCAL GOVERNMENT; OR

18 D. A NONPROFIT CIVIL RIGHTS ORGANIZATION;

19 2. THE PERSON IS A PARTY TO THE COMMUNICATION;

20 AND

21 3. THE INTERCEPTION IS BEING MADE FOR THE

22 PURPOSE OF OBTAINING EVIDENCE OF A FAIR HOUSING VIOLATION UNDER

23 FEDERAL, STATE, OR LOCAL LAW.

24 (II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS

25 PARAGRAPH, NO PART OF THE CONTENTS OF THE INTERCEPTED COMMUNICATION

26 AND NO EVIDENCE DERIVED THEREFROM MAY BE RECEIVED IN EVIDENCE IN ANY

27 TRIAL, HEARING, OR OTHER PROCEEDING IN OR BEFORE ANY COURT, GRAND JURY,

28 DEPARTMENT, OFFICER, AGENCY, REGULATORY BODY, LEGISLATIVE COMMITTEE,

29 OR OTHER AUTHORITY OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE.

30 (III) THE CONTENTS OF AN INTERCEPTED ORAL

31 COMMUNICATION MADE IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS

1 **PARAGRAPH MAY BE USED ONLY FOR THE PURPOSE OF ENFORCING FEDERAL,**  
2 **STATE, OR LOCAL FAIR HOUSING LAWS.**

3           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2025.