

February 9, 2024

The Honorable Joseline A. Pena-Melnyk
Chair, House Health and Government Operations Committee
241 House Office Building
Annapolis MD 21401

Re: Letter of Opposition – House Bill 712 – Public Information Act – Denials – Confidential Information

Dear Chair Pena-Melnyk and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes House Bill 712 and offers the following information for the Committee’s consideration.

Under the Maryland Public Information Act (PIA), MDOT receives requests for public documents which sometimes contain a private business’s confidential information. Under current law, disclosure of a private business’s confidential information is prohibited. As the certification agency for the Minority Business Enterprise (MBE) program and the federal Disadvantage Business Enterprise (DBE) program, MDOT is required by State and federal law to collect and maintain sensitive personal financial records including, tax returns, loan information, and personal net worth statements to determine eligibility. House Bill 712 would require the custodian of the record to make a business determination of whether the release of a private business’s confidential information would result in “substantial competitive harm.” A records custodian is not the appropriate person to make this discretionary determination of what qualifies as “substantial competitive harm.” Furthermore, House Bill 712 could expose the State and the records custodian to potential liability for releasing a record later determined to cause substantial competitive harm. Finally, this bill makes no allowances for the additional time it will take for the custodian to review and analyze the records to determine if the release of a private business’s confidential information will cause undefined and uncategorized “substantial competitive harm.”

For these reasons, the Maryland Department of Transportation respectfully requests the Committee grant House Bill 712 an unfavorable report.

Respectfully submitted,

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Maryland Department of Transportation
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