



Testimony to the House Judiciary Committee
HB392: Evidence – Wiretapping and Electronic Surveillance – Fair Housing Testing
Position: Favorable

February 7, 2024

The Honorable Luke Clippinger, Chair
House Judiciary Committee
Room 101, HOB
Annapolis, Maryland 21401

cc: Members, Judiciary Committee

Honorable Chair Clippinger and Members of the Committee:

Economic Action Maryland (formerly the Maryland Consumer Rights Coalition) is a statewide coalition of individuals and organizations that advances economic rights and equity for Maryland families through research, education, direct service, and advocacy. Our 12,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

I am here in strong support of HB392 and thank Del. Stewart for introducing the legislation. HB392, creates a narrowly-tailored exemption to the all-party consent law to enable fair housing organizations to more effectively test and enforce Maryland's anti-discrimination laws.

Fair housing testing employs individuals to pose as prospective tenants or homeowners to gather information to determine whether or not a provider is complying with state and federal laws related to fair housing. Fair housing testing is crucial for: detecting discrimination, enforcing fair housing laws, and evaluating the effectiveness of existing policies.

The Department of Housing and Urban Development (HUD) recommends equipping testers with recording devices for fair housing testing. Today, to do so would violate Maryland's all-party consent law.

Thirty-nine other states allow certified fair housing organizations to record conversations without two-party consent. Maryland lags behind these states in passing this exemption and notably in its fair housing enforcement.

There are a number of reasons to pass HB392. It will:

- **Strengthens fair housing enforcement & justice in Maryland.** The ability to document test experiences through audio recordings provides incontrovertible evidence of illegal housing discrimination
- **Protects Testers and Housing Providers.** Having an exact account of a conversation protects testers from any credibility or bias as well as protects housing providers from false allegations, misunderstandings, or faulty memories of testers.



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- **Efficient Allocation of Resources.** Saves fair housing organizations money because they can reduce the number of testers used, thereby saving using city, county, state, and federal funds more efficiently and effectively. The use of recorders also allows organizations to maintain the highest investigative standards.
- **There is no right to privacy that would preclude this.** The Department of Justice's Civil Rights Division uses one party recorders in Maryland and across the country. The commercial discussions that take place are taking place in commercial spaces so should not be considered private.

HB392 strengthens Maryland's ability to enforce fair housing laws statewide, uphold the highest evidentiary standards in court, protect housing testers and providers, and make Maryland the fortieth state in the country to better equip fair housing organizations to root out discrimination and make Maryland a more just place for all to live.

For all these reasons, we support HB392 and urge a favorable report.

Best,

Marceline White
Executive Director