MARYLAND MULTI-HOUSING ASSOCIATION, INC.

Bill Title: **Senate Bill 938, Fraud Prevention and Worker Protections - Prohibitions, Penalties, and Enforcement**

Committee: **Senate Finance Committee**

Date: **March 5, 2025**

Position: **Unfavorable**

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 938 expands coverage beyond construction and landscaping to include all industries and applies to all employers, general contractors, higher-tiered contractors, and subcontractors. It holds general contractors and their successors liable for worker misclassification by subcontractors and prohibits private agreements that waive compliance. Additionally, licensing consequences are established for violators in fields regulated by the Division of Occupational and Professional Licensing. If a licensee fails to pay penalties or comply with a final order within 45 days, the Commissioner must notify the relevant licensing authority.

Employers face civil penalties ranging from $5,000 to $25,000 per misclassified employee, with higher penalties for willful violations. Obstructing an investigation carries a $5,000 penalty per occurrence. The Commissioner can issue citations, and violators have 30 days to comply or request a hearing. The Attorney General (AG) can take legal action against employers who misclassify 10 or more employees or cause $25,000 or more in economic damages, with a three-year statute of limitations. Violators may also be debarred from state contracts.

The Maryland Wage and Hour Law empowers the AG to act against employers who fail to pay at least 10 employees their required wages or owe $25,000 or more in unpaid wages, allowing recovery of wages, liquidated damages, penalties, and legal fees. The Maryland False Claims Act now covers false records related to unemployment insurance fraud, with restitution going to workers and the Unemployment Insurance Fund. Finally, the bill establishes a Worker Protection Unit in the AG's office to enforce workplace fraud, wage, and prevailing wage laws.

MMHA opposes Senate Bill 938 for several reasons, particularly because they employ maintenance staff, property managers, or contract with third-party vendors for services like landscaping, cleaning, or construction.

- <u>Increased Liability for Worker Misclassification</u>: The bill expands liability beyond direct employers to general contractors and higher-tiered contractors, meaning housing providers could be held responsible if a subcontractor misclassifies workers. Many housing providers contract with property management companies, maintenance crews, and construction firms, and they may not have full visibility into how those workers are classified.

- Increased Compliance Burden: The bill places new reporting and enforcement requirements on businesses, potentially increasing administrative costs and legal risks. Housing providers would need to vet subcontractors more thoroughly, require more documentation, and possibly conduct audits to avoid penalties.

- Financial Penalties and Enforcement Risks: Penalties of up to $25,000 per misclassified worker could be financially devastating, especially for small or nonprofit housing providers. If a provider unknowingly hires a contractor who misclassifies workers, they could face unexpected fines and legal action.

- Impact on Housing Costs and Affordability: At a time when Maryland faces a dearth of affordable housing to the tune of 96,000 units, increased regulatory and legal risks could lead to higher costs for services, including maintenance, renovations, and repairs, which might increase rent or fees for tenants. Some providers may choose to limit hiring or shift to larger, more expensive contractors who can guarantee compliance, reducing competition and raising costs.

- Risk of Losing State Contracts: Housing providers who engage in public-private partnerships or receive state funding for affordable housing projects could face debarment from state contracts if found in violation, threatening their ability to operate or expand housing initiatives.

- Legal Uncertainty and Potential Litigation: The expanded enforcement authority of the Attorney General and Worker Protection Unit increases the risk of investigations, administrative penalties, and lawsuits, creating uncertainty for housing providers. Even those in full compliance may face legal costs if they must defend against an investigation or citation.

- Chilling Effect on Contracting and Development: The increased risk and regulatory burden may discourage housing providers from hiring small or independent contractors, reducing economic opportunities for local workers. Some providers may delay or cancel development projects due to concerns over compliance risks and increased costs.

Housing providers oppose this bill due to financial liability, compliance burdens, increased costs, legal risks, and potential restrictions on contracting and development.

For these reasons, the Maryland Multi-Housing Association respectfully requests an unfavorable report on Senate Bill 938.

Please contact Aaron J. Greenfield at 410.446.1992 if you have any questions.