



**Bill:** HB213 - Evidence - Interception of Oral Communications - Fair Housing Testing

**Committee:** Judicial

**Date:** February 24, 2026

**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 167,000 apartment rental units in Montgomery and Prince George’s counties. AOBA submits the following testimony in opposition to House Bill 213.

AOBA members agree that it is important to combat and prevent housing discrimination, but members also share serious concerns that this bill impedes on expectation of privacy for the person being recorded and those that by coincidence share the same public space.

In fact, this bill, if passed, would create the broadest private testing exception in the country. During the House Judiciary Committee briefing in November of 2025, the National Conference of State Legislatures asserted that no other states have created the exception for fair housing testers.<sup>1</sup>

Additionally, during Maryland’s 2025 legislative session, multiple bills were introduced that related to wiretapping or the creation of exceptions to two-party consent. HB 213 cannot be viewed as existing in a silo because it would set precedent for opening the statute to mitigate other important concerns effectively dismantling ones right to privacy. Since 2023, the legislature has heard at least 12 bills relating to wiretapping.<sup>234</sup> What is next? Housing providers to record nuisance tenants to aid in eviction cases? Should patients be able to record health care professionals to prove medical malpractice claims?

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 an individual’s ability to maintain control over their personal or business information Frontline, entry level employees may be

<sup>1</sup> [https://mgaleg.maryland.gov/mgawebsite/Committees/Media/false?cmte=jud&clip=JUD\\_11\\_18\\_2025\\_meeting\\_1&ys=2025rs](https://mgaleg.maryland.gov/mgawebsite/Committees/Media/false?cmte=jud&clip=JUD_11_18_2025_meeting_1&ys=2025rs)

<sup>2</sup> <https://mgaleg.maryland.gov/mgawebsite/Legislation/SubjectIndex/wiretapping?ys=2025rs>

<sup>3</sup> <https://mgaleg.maryland.gov/mgawebsite/Legislation/SubjectIndex/wiretapping?ys=2024rs>

<sup>4</sup> <https://mgaleg.maryland.gov/mgawebsite/Legislation/SubjectIndex/wiretapping?ys=2023rs>

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especially vulnerable, because a selective clip or an out of context recording can damage a reputation or career even when no unlawful intent existed. Fair housing tests are designed to generate evidence, so testers often operate with planned objectives and standardized scenarios rather than as purely neutral bystanders. Furthermore, the bill does not have properly safeguard recordings, restrict authorized parties from passing the recordings to unauthorized parties, or ensure a baseline of proper training when handling sensitive information. This bill seeks to limit the use of intercepted contents to enforcing fair housing laws, but the act of recording itself creates a permanent copy of private communications and increases the likelihood of inadvertent capture of sensitive information unrelated to any alleged violation.

Unintended Authorizations: This bill would allow a fair housing tester, including one working for a federally operated fair housing testing program, to record an oral conversation that the tester is participating in, without the other party's consent, when done to gather evidence of a fair housing violation. AOBA recognizes the current landscape of uncertainties within federal agencies. In a climate where vulnerable communities may fear government scrutiny, especially around immigration, expanding lawful covert recording without explicit data-protection guardrails can chill housing inquiries and discourage people from asserting their rights. This is not the ideal political climate to provide additional authorities to the agencies that may act in an adverse manner towards immigrant populations and other vulnerable groups.

Confusion in Legality: This bill would likely create uncertainty and disputes over handling, disclosure, and use, which we expect to drive up compliance and legal costs for housing providers at a time when such providers are feeling the pressures of inflation and increased costs.

For these reasons, the Apartment and Office Building Association respectfully requests an unfavorable report on House Bill 213. Please contact Hugo Cantu at [hcantu@aoba-metro.org](mailto:hcantu@aoba-metro.org) with any questions or concerns.