

Department of Legislative Services  
 Maryland General Assembly  
 2009 Session

FISCAL AND POLICY NOTE

Senate Bill 918 (Senator Lenett, *et al.*)  
 Education, Health, and Environmental Affairs

Housing - Maryland Building Performance Standards - Minimum Features for Accessibility

This bill requires the Department of Housing and Community Development (DHCD) to include in the Maryland Building Performance Standards (MBPS), the minimum features for accessibility for a Type C dwelling unit found in the most recent edition of the American National Standards Institute (ANSI) A117.1 standard for new single-family residences consisting of three or fewer dwelling units. Local governments must establish specified procedures by which building permit applicants may obtain waivers from the accessibility requirements. However, a waiver may not be granted generally, but only for one or more particular accessibility features.

Fiscal Summary

**State Effect:** Special fund expenditures increase by approximately \$49,200 in FY 2010 and by \$91,100 beginning in FY 2011. Revenues are not affected.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	49,200	91,100	95,500	100,000	104,800
Net Effect	(\$49,200)	(\$91,100)	(\$95,500)	(\$100,000)	(\$104,800)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential minimal increase in expenditures in some jurisdictions. Revenues increase in some jurisdictions from additional permit fees to cover building inspections and waivers.

**Small Business Effect:** Minimal impact on small businesses within the housing construction industry.

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## **Analysis**

**Bill Summary:** Local governments must submit a copy of the local waiver procedures, and any amendment to the local waiver procedure, to DHCD within 15 days after the effective date. By January 1, 2011 and January 1, 2012, DHCD must report to the General Assembly on the effective date and scope of any local amendments to MBPS regarding minimum features for accessibility required as well as the effective date and primary provisions of the local waiver procedures required under the bill.

DHCD must request a statement from ANSI as to whether or not the final 2009 ANSI A117.1 standards include the Type C dwelling unit technical criteria.

The bill takes effect October 1, 2009, however, the bill's substantive provisions only take effect 30 days after DHCD receives a response statement from ANSI indicating that the A117.1 standard includes Type C dwelling unit technical criteria; if the statement indicates that the A117.1 standard does not include Type C dwelling unit technical criteria then the bill's requirements are null and void.

**Current Law:** DHCD is required to adopt as the MBPS the most recent version of the IBC, along with applicable modifications authorized in Title 12 of the Public Safety Article. Within 12 months of the release of each new version of the IBC, DHCD is required to review the new version and consider modifications. During this process, DHCD is required to accept and consider comments and hold a public hearing on any proposed modification. DHCD is prohibited from adopting any modification that is more stringent than the IBC.

**Background:** The IBC was established by the International Code Council. The International Code Council was established in 1994 as a nonprofit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes. The IBC has been adopted by all 50 states as well as thousands of local jurisdictions.

According to the United Spinal Association, "visitability" is a growing public movement with the purpose of making individual homes accessible by changing the most fundamental, inexpensive construction features of the home easier for people with mobility impairment. A Type C dwelling has been summarized as follows:

- one accessible entrance into the home from a public street or sidewalk, a dwelling unit driveway, or a garage;
- an accessible circulation path connecting an entrance with a toilet room or bathroom, with one habitable space with an area 70 square feet minimum and with a food preparation area (if one is provided on the entrance level of the home);
- a toilet room/bathroom with basic clearance at the water closet and reinforcements in the walls for the future installation of grab bars;
- doors with sufficient clear width provided throughout the entrance level of the home;
- lighting controls and receptacle outlets mounted within accessible reach ranges; and
- clearances between all opposing base cabinets, counter tops, appliances or walls within food preparation areas (if provided on the entrance level) that are 40 inches minimum.

**State Expenditures:** Special fund expenditures at DHCD may increase by more than \$90,000 in the first full fiscal year that the bill’s substantive provisions take effect. This reflects the cost of a project manager at DHCD with expertise in housing code implementation. For purposes of this fiscal estimate, it is assumed that the cost will be realized beginning in fiscal 2010, but reflecting a January 1, 2010 start date.

	<u><b>FY 2010</b></u>	<u><b>FY 2011</b></u>
Position	1	
Salary and Fringe Benefits	\$44,590	\$90,632
Start-up Costs and Operating Expenses	<u>4,590</u>	<u>515</u>
<b>Total State Expenditures</b>	<b>\$49,180</b>	<b>\$91,147</b>

Future year expenditures reflect a full salary with 4% annual increases and 3% employee turnover, and 1% annual increases in ongoing operating expenses.

**Local Fiscal Effect:** Assuming that the bill’s substantive provisions take effect, local housing code enforcement authorities will administer the bill’s waiver provision. In some jurisdictions this can be handled with existing resources. However, some jurisdictions may be required to expend additional funds to implement this requirement. For example, Frederick County advises that the vast majority of builders are likely to apply for a waiver to avoid the additional costs associated with visitability modifications. In addition, some counties may need additional code enforcement staff. For example, Montgomery County advises that it may need one additional part-time permitting inspector in addition to the part-time permitting specialist needed to review waivers. (These costs are estimated at \$75,000 on an annualized basis.) However, any increase in

expenditures by local housing enforcement authorities may be recovered as current law authorizes a fee to cover the cost of local MBPS implementation and enforcement. Montgomery County advises that permit fees may increase by 9% to cover the expenditures caused by the bill.

**Small Business Effect:** According to data from the U.S. Census Bureau, in 2005, the most recent year for which data is available, 88.9% of construction firms in Maryland had fewer than 20 employees and 98.1% had fewer than 100 employees. The Department of Disabilities advises that according to a national study, incorporating visitability features within initial construction plans may reduce the increase in construction costs to only a few hundred dollars. Some or all of the associated cost increases may be passed on to customers.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 998 (Delegate Niemann, *et al.*) - Environmental Matters.

**Information Source(s):** Anne Arundel, Charles, Frederick, Montgomery, and Somerset counties; Maryland Department of Planning; Department of Housing and Community Development; Department of Disabilities; Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2009  
ncs/hlb

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