

SENATE BILL 196

E4

2lr0616

By: **Senators Young, Klausmeier, Madaleno, Montgomery, and Robey**

Introduced and read first time: January 20, 2012

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2012

CHAPTER _____

1 AN ACT concerning

2 **Public Safety – Building Codes – Balcony Inspections**
3 **(“Jonathan’s Law”)**

4 FOR the purpose of requiring a political subdivision to ~~conduct~~ require periodic
5 inspections of certain multifamily dwellings with balconies to ensure that each
6 balcony meets certain requirements; authorizing a political subdivision to
7 conduct the inspections, authorize a third party to conduct the ~~periodic~~
8 inspections, or require a certain professional inspector to conduct and certify the
9 inspections in a certain manner; authorizing a political subdivision to charge a
10 fee for a periodic inspection; defining ~~a certain term~~ terms; providing for the
11 application of this Act; and generally relating to inspections of balconies in
12 multifamily dwellings.

13 BY repealing and reenacting, with amendments,

14 Article – Public Safety

15 Section 12–203

16 Annotated Code of Maryland

17 (2003 Volume and 2011 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article – Public Safety**

21 12–203.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (a) **(1)** In this section[,] **THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(2)** “Department” means the Department of Housing and Community
4 Development.

5 **(3)** “**MULTIFAMILY DWELLING**” MEANS A BUILDING CONTAINING
6 **TWO OR MORE DWELLING UNITS, INCLUDING:**

7 **(I)** AN APARTMENT HOUSE;

8 **(II)** A BOARDING HOUSE;

9 **(III)** A CONVENT;

10 **(IV)** A DORMITORY;

11 **(V)** A FRATERNITY OR SORORITY HOUSE;

12 **(VI)** A HOTEL OR MOTEL;

13 **(VII)** A MONASTERY; AND

14 **(VIII)** A VACATION TIME-SHARE PROPERTY.

15 **(4)** “PROFESSIONAL INSPECTOR” MEANS:

16 **(I)** A PROFESSIONAL ENGINEER LICENSED UNDER TITLE 14
17 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND
18 EXPERIENCED IN THE PRACTICE OF STRUCTURAL ENGINEERING; OR

19 **(II)** AN ARCHITECT LICENSED UNDER TITLE 3 OF THE
20 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND KNOWLEDGEABLE
21 IN THE DESIGN, CONSTRUCTION, AND INSPECTION OF BUILDINGS.

22 (b) Each political subdivision shall adopt by regulation a local housing code
23 that sets minimum property maintenance standards for housing in the subdivision.

24 (c) The Department shall adopt by regulation a Minimum Livability Code.

25 (d) (1) Except as provided in paragraph (2) of this subsection, the
26 Minimum Livability Code applies to residential structures used for human habitation.

- 1 (2) The Minimum Livability Code does not apply to:
- 2 (i) an owner–occupied housing unit;
- 3 (ii) any housing in a political subdivision that has adopted a
4 local housing code that substantially conforms to the Minimum Livability Code; or
- 5 (iii) any housing exempted by the Department.

6 (e) The Minimum Livability Code shall:

- 7 (1) set minimum property standards for housing in the State;
- 8 (2) allow for exceptions and variations between political subdivisions:
- 9 (i) to reflect geographic differences; or
- 10 (ii) if the Department determines that unique local conditions
11 justify exceptions or variations recommended by political subdivisions; and
- 12 (3) include minimum standards for:
- 13 (i) basic equipment and facilities used for light, ventilation,
14 heat, and sanitation; and
- 15 (ii) safe and sanitary maintenance of residential structures and
16 premises.

17 (f) (1) The political subdivision in which the housing is located shall
18 enforce the Minimum Livability Code.

19 (2) Unless alternative housing is provided, an individual may not be
20 displaced by enforcement of the Minimum Livability Code.

21 **(3) (I) A POLITICAL SUBDIVISION SHALL ~~CONDUCT~~ REQUIRE**
22 **AN INSPECTION OF EACH MULTIFAMILY DWELLING IN THE POLITICAL**
23 **SUBDIVISION IN WHICH A UNIT IN THE MULTIFAMILY DWELLING HAS A BALCONY**
24 **AT LEAST ONCE EVERY 5 YEARS TO ENSURE THAT EACH BALCONY MEETS THE**
25 **REQUIREMENTS OF THE APPLICABLE LOCAL HOUSING CODE OR THE MINIMUM**
26 **LIVABILITY CODE.**

27 **(II) A POLITICAL SUBDIVISION MAY:**

28 **1. CONDUCT INSPECTIONS REQUIRED UNDER**
29 **SUBPARAGRAPH (I) OF THIS PARAGRAPH;**

1 **2. AUTHORIZE A THIRD PARTY TO CONDUCT**
2 **INSPECTIONS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ON**
3 **BEHALF OF THE POLITICAL SUBDIVISION; OR**

4 **3. REQUIRE AN INSPECTION REQUIRED UNDER**
5 **SUBPARAGRAPH (I) OF THIS PARAGRAPH TO BE CONDUCTED AND CERTIFIED TO**
6 **THE POLITICAL SUBDIVISION BY A PROFESSIONAL INSPECTOR EMPLOYED BY**
7 **THE OWNER OF THE MULTIFAMILY DWELLING.**

8 **(III) A CERTIFICATION MADE BY A PROFESSIONAL**
9 **INSPECTOR UNDER SUBPARAGRAPH (II)3 OF THIS PARAGRAPH SHALL:**

10 **1. BE MADE IN THE FORM REQUIRED BY THE**
11 **APPLICABLE POLITICAL SUBDIVISION; AND**

12 **2. INCLUDE:**

13 **A. A STATEMENT THAT THE BALCONY HAS BEEN**
14 **INSPECTED;**

15 **B. THE NAME OF THE OWNER OF THE MULTIFAMILY**
16 **DWELLING;**

17 **C. THE ADDRESS OF THE MULTIFAMILY DWELLING;**

18 **D. THE NAME OF THE INSPECTOR;**

19 **E. THE DATE THE MULTIFAMILY DWELLING WAS**
20 **INSPECTED;**

21 **F. THE RESULTS OF THE INSPECTION; AND**

22 **G. ANY OTHER INFORMATION REQUIRED BY THE**
23 **POLITICAL SUBDIVISION.**

24 **[(3)] (4)** A political subdivision may charge a property owner a fee
25 for:

26 **(I)** an inspection made to enforce the Minimum Livability Code;
27 **AND**

28 **(II)** A PERIODIC INSPECTION MADE UNDER PARAGRAPH (3)
29 **OF THIS SUBSECTION.**

1 (g) (1) On application of the property owner, a political subdivision may
2 waive the applicability of the Minimum Livability Code to a unit of rental housing if:

3 (i) each tenant of the unit is given adequate notice in the form
4 and manner specified by the political subdivision;

5 (ii) each tenant is given an opportunity to comment on the
6 application in writing or in person; and

7 (iii) the waiver would not threaten the health or safety of any
8 tenant.

9 (2) A political subdivision may waive applicability of the Minimum
10 Livability Code if the waiver is granted on the basis of the religious practices of the
11 tenant of a unit of rental housing.

12 (h) The Department:

13 (1) shall decide questions of interpretation of the Minimum Livability
14 Code, including questions that relate to uniform enforcement by political subdivisions;
15 and

16 (2) may authorize waivers or exemptions under the Minimum
17 Livability Code.

18 (i) (1) The Department may provide matching grants and technical
19 assistance to political subdivisions to implement the Minimum Livability Code.

20 (2) The matching grants shall be allocated using a formula developed
21 by the Department to take into account population and other relevant factors.

22 (3) The Department may waive the requirement of a match if
23 adequate local money is not available.

24 (j) (1) A property owner may not willfully violate the Minimum Livability
25 Code.

26 (2) A person who violates this subsection is guilty of a misdemeanor
27 and on conviction is subject for each violation to imprisonment not exceeding 3 months
28 or a fine not exceeding \$500 for each day the violation exists or both.

29 (3) A penalty imposed under this subsection is in addition to and not a
30 substitute for any other penalty authorized under federal, State, or local law.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not require
32 a political subdivision that conducts balcony inspections before the effective date of

1 this Act to alter its method of conducting inspections, but any change to balcony
2 inspection methods made on or after October 1, 2012, must comply with this Act.

3 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.