

SENATE BILL 18

E4
SB 196/12 – EHE

(PRE-FILED)

3lr0613
CF HB 469

By: **Senator Young**

Requested: October 23, 2012

Introduced and read first time: January 9, 2013

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 26, 2013

Returned to second reading: March 8, 2013

Senate action: Adopted with floor amendments

Read second time: March 12, 2013

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 require periodic inspections ~~by~~
5 ~~certain professional inspectors~~ of certain multifamily dwellings with balconies
6 to ensure that each balcony meets certain requirements; authorizing a political
7 subdivision to conduct the inspections, authorize a third party to conduct the
8 inspections, ~~or, in certain circumstances,~~ require a certain professional
9 inspector employed by the owner of a multifamily dwelling to conduct and
10 certify the inspections in a certain manner; requiring a political subdivision to
11 provide a certain notice to the owner of a multifamily dwelling; authorizing a
12 political subdivision to charge a fee for a periodic inspection; defining certain
13 terms; requiring a political subdivision to require a certain inspection under
14 this Act of certain multifamily dwellings on or before a certain date; providing
15 that this Act does not require a political subdivision to inspect a certain balcony
16 more than once within a certain period of time; providing for the application of
17 this Act; and generally relating to inspections of balconies in multifamily
18 dwellings.

19 BY repealing and reenacting, with amendments,
20 Article – Public Safety

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 Section 12–203
 2 Annotated Code of Maryland
 3 (2011 Replacement Volume and 2012 Supplement)

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

6 **Article – Public Safety**

7 12–203.

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

10 (2) “Department” means the Department of Housing and Community
 11 Development.

12 (3) (I) **“MULTIFAMILY DWELLING” MEANS A ~~BUILDING~~**
 13 **PROPERTY CONTAINING TWO OR MORE DWELLING UNITS, INCLUDING:**

14 ~~(I)~~ **1. AN APARTMENT HOUSE;**

15 ~~(II)~~ **2. A BOARDING HOUSE;**

16 ~~(III)~~ **3. A CONVENT;**

17 ~~(IV)~~ **4. A DORMITORY;**

18 ~~(V)~~ **5. A FRATERNITY OR SORORITY HOUSE;**

19 ~~(VI)~~ **6. A HOTEL OR MOTEL;**

20 ~~(VII)~~ **7. A MONASTERY; AND**

21 ~~(VIII)~~ **8. A VACATION TIME–SHARE PROPERTY.**

22 **(II) “MULTIFAMILY DWELLING” DOES NOT INCLUDE:**

23 **1. A CONDOMINIUM, AS DEFINED IN § 11–101 OF THE**
 24 **REAL PROPERTY ARTICLE; OR**

25 **2. A COOPERATIVE HOUSING CORPORATION, AS**
 26 **DEFINED IN § 5–6B–01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.**

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

1 **(I) A PROFESSIONAL ENGINEER LICENSED UNDER TITLE 14**
2 **OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND**
3 **EXPERIENCED IN THE PRACTICE OF STRUCTURAL ENGINEERING; ~~OR~~**

4 **(II) AN ARCHITECT LICENSED UNDER TITLE 3 OF THE**
5 **BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND KNOWLEDGEABLE**
6 **IN THE DESIGN, CONSTRUCTION, AND INSPECTION OF BUILDINGS; OR**

7 **(III) FOR PURPOSES OF THE INSPECTION OF A MULTIFAMILY**
8 **DWELLING CONTAINING MORE THAN 10 DWELLING UNITS, A QUALIFIED PERSON**
9 **WITH AT LEAST 5 YEARS OF EXPERIENCE IN MULTIFAMILY DWELLING**
10 **OPERATIONS, UPKEEP, AND MAINTENANCE.**

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

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

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

16 (2) The Minimum Livability Code does not apply to:

17 (i) an owner-occupied housing unit;

18 (ii) any housing in a political subdivision that has adopted a
19 local housing code that substantially conforms to the Minimum Livability Code; or

20 (iii) any housing exempted by the Department.

21 (e) The Minimum Livability Code shall:

22 (1) set minimum property standards for housing in the State;

23 (2) allow for exceptions and variations between political subdivisions:

24 (i) to reflect geographic differences; or

25 (ii) if the Department determines that unique local conditions
26 justify exceptions or variations recommended by political subdivisions; and

27 (3) include minimum standards for:

28 (i) basic equipment and facilities used for light, ventilation,
29 heat, and sanitation; and

1 (ii) safe and sanitary maintenance of residential structures and
2 premises.

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

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

7 (3) (I) A POLITICAL SUBDIVISION SHALL REQUIRE AN
8 INSPECTION ~~BY A PROFESSIONAL INSPECTOR~~ OF EACH MULTIFAMILY
9 DWELLING IN THE POLITICAL SUBDIVISION IN WHICH A UNIT IN THE
10 MULTIFAMILY DWELLING HAS A BALCONY AT LEAST ONCE EVERY 10 YEARS
11 BEGINNING NO LATER THAN 10 YEARS AFTER THE BALCONY IS CONSTRUCTED,
12 TO ENSURE THAT EACH BALCONY MEETS THE REQUIREMENTS OF THE
13 APPLICABLE LOCAL HOUSING CODE OR THE MINIMUM LIVABILITY CODE.

14 (II) A POLITICAL SUBDIVISION MAY:

15 1. CONDUCT INSPECTIONS REQUIRED UNDER
16 SUBPARAGRAPH (I) OF THIS PARAGRAPH;

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

20 3. ~~IN THE CASE OF A MULTIFAMILY DWELLING~~
21 ~~CONTAINING MORE THAN 10 DWELLING UNITS,~~ REQUIRE AN INSPECTION
22 REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH TO BE CONDUCTED
23 AND CERTIFIED TO THE POLITICAL SUBDIVISION BY A PROFESSIONAL
24 INSPECTOR EMPLOYED BY THE OWNER OF THE MULTIFAMILY DWELLING.

25 (III) A CERTIFICATION MADE BY A PROFESSIONAL
26 INSPECTOR UNDER SUBPARAGRAPH (II)³ OF THIS PARAGRAPH SHALL:

27 1. BE MADE IN THE FORM REQUIRED BY THE
28 APPLICABLE POLITICAL SUBDIVISION; AND

29 2. INCLUDE:

30 A. A STATEMENT THAT THE BALCONY HAS BEEN
31 INSPECTED;

- 1 **B.** **THE NAME OF THE OWNER OF THE MULTIFAMILY**
 2 **DWELLING;**
- 3 **C.** **THE ADDRESS OF THE MULTIFAMILY DWELLING;**
- 4 **D.** **THE NAME OF THE INSPECTOR;**
- 5 **E.** **THE DATE THE MULTIFAMILY DWELLING WAS**
 6 **INSPECTED;**
- 7 **F.** **THE RESULTS OF THE INSPECTION; AND**
- 8 **G.** **ANY OTHER INFORMATION REQUIRED BY THE**
 9 **POLITICAL SUBDIVISION.**

10 **(IV) A POLITICAL SUBDIVISION SHALL:**

11 **1. PROVIDE NOTICE TO THE OWNER OF A**
 12 **MULTIFAMILY DWELLING AT LEAST 10 DAYS BEFORE ANY INSPECTION OF THE**
 13 **DWELLING CONDUCTED UNDER SUBPARAGRAPH(II)2 OR 3 OF THIS PARAGRAPH;**
 14 **OR**

15 **2. A. NOTIFY THE OWNER OF A MULTIFAMILY**
 16 **DWELLING OF THE NEED TO HAVE A PROFESSIONAL INSPECTOR COMPLETE AN**
 17 **INSPECTION UNDER SUBPARAGRAPH (II) 3 OF THIS PARAGRAPH; AND**

18 **B. ALLOW THE OWNER OF THE MULTIFAMILY**
 19 **DWELLING A REASONABLE PERIOD OF TIME TO HAVE THE INSPECTION**
 20 **COMPLETED.**

21 **[(3)] (4)** A political subdivision may charge a property owner a fee
 22 for:

23 **(I)** an inspection made to enforce the Minimum Livability Code;
 24 **AND**

25 **(II)** **A PERIODIC INSPECTION MADE UNDER PARAGRAPH (3)**
 26 **OF THIS SUBSECTION.**

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

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

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

3 (iii) the waiver would not threaten the health or safety of any
4 tenant.

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

8 (h) The Department:

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

12 (2) may authorize waivers or exemptions under the Minimum
13 Livability Code.

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

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

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

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

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,
28 2014, a political subdivision shall require an inspection, in accordance with the
29 requirements of this Act, of each multifamily dwelling in the political subdivision in
30 which a unit in the multifamily dwelling has a balcony that is at least 10 years old.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act does not require
32 a political subdivision ~~that conducts balcony inspections before the effective date of~~
33 ~~this Act to alter its method of conducting inspections~~ to inspect a balcony inspected
34 before the effective date of this Act more than once within a 10-year period, but any

1 ~~change to balcony inspection methods made balcony inspection conducted on or after~~
2 ~~October 1, 2013, must comply with this Act.~~

3 SECTION 4. AND BE IT FURTHER ENACTED, That this Act does not require
4 a political subdivision that conducts balcony inspections before the effective date of
5 this Act to alter its method of conducting inspections, but any change to balcony
6 inspection methods made on or after October 1, 2013, must comply with this Act.

7 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take
8 effect October 1, 2013.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.