

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 401

(Senator Young)

Education, Health, and Environmental Affairs

Environmental Matters

Public Safety - Building Codes - Balcony Railing Inspections (Jonathan's Law)

This bill requires a political subdivision, other than Baltimore City, to require an inspection of each “multifamily dwelling” in the political subdivision in which a unit in the dwelling has balcony railings that are primarily constructed of wood at least once every five years in order to ensure that the balcony railings meet the requirements of the applicable local housing code or the Minimum Livability Code. A political subdivision may charge a property owner a fee for each periodic balcony inspection. The bill prohibits Baltimore City from reissuing or renewing a “multiple-family dwelling” license unless the applicant demonstrates that a professional inspector has completed an inspection of the multiple-family dwelling to ensure that each balcony railing in the dwelling meets the requirements of specified codes of Baltimore City.

Fiscal Summary

State Effect: The bill’s requirements can be absorbed within existing budgeted resources. Any additional criminal penalties assessed as a result of the bill are not anticipated to materially affect State finances.

Local Effect: Some local governments may experience an increase in expenditures to conduct the required inspections. Local revenues may increase as a result of any inspection fees assessed pursuant to the bill’s authority. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Political Subdivisions Other than Baltimore City

The bill defines “multifamily dwelling” as a property containing two or more dwelling units, including an apartment house, a boarding house, a convent, a dormitory, a fraternity or sorority house, a hotel or motel, a monastery, and a vacation time-share property. The term does not include a condominium or a cooperative housing corporation.

A political subdivision may (1) conduct the inspection; (2) authorize a third party to conduct the inspection; or (3) require an inspection to be conducted and certified by a professional inspector hired by the owner of the multifamily dwelling. A political subdivision must provide specified notice to an affected owner and allow the owner a reasonable period of time to have the inspection completed.

A political subdivision that otherwise inspects multifamily dwelling units at least once every five years may include the inspection required under the bill as part of that inspection.

Baltimore City

“Multiple-family dwelling” means a building or part of a building that contains more than two dwelling units.

Beginning in October 2015, and every five years thereafter, at the time Baltimore City sends a renewal notice to a holder of a multiple-family dwelling license, Baltimore City must notify the license holder of the bill’s inspection requirement.

Timeline for Inspections

An initial inspection of each multifamily or multiple-family dwelling with a balcony railing that is at least 10 years old is required by October 1, 2015.

The bill does not require a political subdivision that conducts balcony railing inspections before October 1, 2014, to alter its method of conducting inspections; however, any subsequent change to balcony railing inspection methods must comply with the bill. Furthermore, the bill does not require a political subdivision, other than Baltimore City, to inspect a balcony railing inspected before the bill’s effective date more than once within a five-year period.

Current Law:

Minimum Livability Code

The Department of Housing and Community Development (DHCD) is required to adopt a “Minimum Livability Code,” which sets baseline property standards for all residential structures located in the State except for owner-occupied single-family housing units or specified housing exempted by DHCD. The Minimum Livability Code must contain minimum standards for the safe and sanitary maintenance of residential structures and premises.

The Minimum Livability Code incorporates the 2012 International Property Maintenance Code (IPMC). IPMC sets requirements for the conditions and maintenance of property, buildings, and structures that are essential to ensure that structures are safe, sanitary, and fit for human occupation and use. IPMC requires that every exterior balcony be structurally sound, in good repair, with proper anchorage, and capable of supporting the imposed loads. Every interior balcony must be maintained in sound condition and good repair. Additionally, every portion of a balcony which is more than 30 inches above the floor or grade must have guards at least 30 inches above the floor of the balcony.

Each political subdivision in the State must also adopt a local housing code that sets minimum property maintenance standards for housing within the subdivision. DHCD’s Minimum Livability Code does not apply to housing located in a political subdivision that has adopted a substantially similar local housing code. Each political subdivision is responsible for enforcing the Minimum Livability Code and may charge a property owner a fee for an inspection made to enforce the code.

A property owner may apply for a waiver of the Minimum Livability Code. A political subdivision is authorized to issue a waiver if (1) each tenant of the unit is given adequate notice in the form and manner specified by the political subdivision; (2) each tenant is given an opportunity to comment on the application in writing or in person; and (3) the waiver would not threaten the health or safety of any tenant. A political subdivision may also issue a waiver on the basis of the religious practices of a rental housing unit’s tenant. DHCD decides questions of interpretation of the Minimum Livability Code, including questions that relate to uniform enforcement by political subdivisions, and may authorize waivers or exemptions under the Minimum Livability Code.

DHCD may provide matching grants and technical assistance to political subdivisions in order to implement the Minimum Livability Code.

A property owner who willfully violates the Minimum Livability Code is guilty of a misdemeanor and, upon conviction, is subject, for each violation, to imprisonment for up to three months or a fine of up to \$500 for each day the violation exists, or both. Any such penalty is not a substitute for any other penalty authorized under federal, State, or local law.

Baltimore City Multiple-family Dwelling License

In Baltimore City, no person may operate any multiple-family dwelling without a license from the Commissioner of Housing and Community Development. A license may be issued or renewed only if (1) all dwelling units are registered; (2) the registration fees and all outstanding interest and late fees have been paid; (3) the premises have been inspected by the commissioner; (4) the premises are in compliance with State laws and regulations governing lead paint; and (5) the premises are not subject to an unabated violation notice issued under § 116 (“Unsafe Structures”) of the Baltimore City Building Code. Before a license expires, the commissioner mails notices to the licensee, specifying a date and time when an inspector will be present to reinspect the premises. Within one week of receiving the notice, the licensee may reschedule the inspection up to two weeks after the date specified in the notice. The license will not be renewed if the licensee fails to provide entry for a scheduled inspection or unduly delays the inspection.

Background: The bill stems from a 2008 incident in Massachusetts in which a 32-year-old man died after a railing on his apartment’s balcony collapsed. His death led to the passing of a similar law in Massachusetts.

Local Fiscal Effect: Local expenditures increase if a political subdivision hires an additional inspector or contracts with a third party to perform the required balcony railing inspections. Whether a political subdivision needs to hire an additional inspector or contract with a third party to perform any additional inspections depends on the number of balconies with railings primarily constructed of wood and any inspection process already in place. However, local expenditures may be mitigated to the extent that a political subdivision chooses to require that inspections be conducted and certified to the political subdivision by a professional inspector hired by the owner of the multifamily dwelling, rather than conducting or contracting for the inspections directly.

In some jurisdictions, such as Montgomery County, the bill does not materially affect local finances because inspections of rental properties already occur more frequently than once every five years. In jurisdictions such as these, it is assumed that the bill’s requirements can be handled as part of the existing inspection process. In other jurisdictions, such as Charles and Frederick counties, costs increase to hire additional staff to implement an inspection program.

Although conducting balcony railing inspections may increase local expenditures, a political subdivision may offset its additional costs by charging a property owner an inspection fee as authorized by the bill. Although a political subdivision is authorized to charge an inspection fee, some local jurisdictions may choose not to implement such a fee. For example, the City of Havre de Grace advises that implementing a separate fee schedule to cover inspections for the bill would not be cost effective. Thus, in these local jurisdictions, inspection costs may not be offset by fee revenue.

Several jurisdictions, including the City of Havre de Grace and Baltimore County, advise that they plan to contract with a third party to conduct inspections. Baltimore County advises that it plans to collect a fee from property owners to offset the contract costs. The county currently conducts inspections on an as-needed basis rather than periodically.

Baltimore City advises that, because the balcony railing inspection requirements for the city are incorporated into its existing multiple-family dwelling licensing program, the bill does not materially affect the city's operations or finances; Baltimore City anticipates a minimal increase in expenditures to provide the required notice to licensees at the time of license renewal.

Any additional criminal penalties assessed as a result of the bill are not anticipated to materially affect local finances.

Small Business Effect: Small businesses subject to inspections incur increases in costs to pay any inspection fees established as a result of the bill. Particularly, a hotel or motel may incur a meaningful increase in expenditures to pay any inspection fees established. However, it is assumed that any increase in costs will be passed on to customers in the form of higher prices.

Additional Information

Prior Introductions: SB 18 of 2013, a similar bill, was reported favorably with amendments by the Senate Education, Health, and Environmental Affairs Committee, but failed on third reading in the Senate. Its cross file, HB 469, received a hearing in the House Environmental Matters Committee, but was subsequently withdrawn. SB 196 of 2012 was reported favorably with amendments by the Senate Education, Health, and Environmental Affairs Committee, but failed on third reading in the Senate.

Cross File: None designated; however, HB 947 (Delegate Stein – Environmental Matters) is identical.

Information Source(s): Baltimore City; Baltimore, Charles, Frederick, and Montgomery counties; Maryland Association of Counties; City of Havre de Grace; Maryland Municipal League; Department of Human Resources; Maryland State Department of Education; Department of Housing and Community Development; Department of Juvenile Services; Department of Labor, Licensing, and Regulation; University System of Maryland; Department of Legislative Services

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Analysis by: Joshua A. Lowery

Direct Inquiries to:
(410) 946-5510
(301) 970-5510