

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1472 (Delegate Branch)
 Environment and Transportation

Fire Safety Construction Act of 2016

This bill establishes fire safety construction restrictions for multifamily dwellings. Specifically, the bill prohibits the construction of a multifamily dwelling using “light framed combustible construction” in a municipality that has a population of 5,000 or more persons per square mile. Subject to specified conditions, a multifamily dwelling may be constructed using light framed combustible construction in a municipality with a population of fewer than 5,000 per square mile. Among other things, the construction of such dwellings must have a fire watch guard present during all phases of construction, and the fire watch may only conclude when the guard receives a certificate of occupancy for the dwelling. The Office of the State Fire Marshal (OSFM) must create a training and certification procedure for fire watch guards. The bill also requires that the Department of Housing and Community Development (DHCD) to adopt the bill’s provisions as a part of the Maryland Building Performance Standards (MBPS).

Fiscal Summary

State Effect: General fund expenditures increase by \$786,900 in FY 2017 for OSFM to certify and train watch guards and to audit construction sites. Future years reflect annualization and inflation. Revenues are not affected.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	786,900	690,800	717,200	744,700	773,300
Net Effect	(\$786,900)	(\$690,800)	(\$717,200)	(\$744,700)	(\$773,300)

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

Local Effect: Local expenditures likely increase in order to adopt and enforce additional building performance standards under MBPS. The impact of the bill on local revenues

from building permit fees is unknown. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Bill Summary: “Light framed combustible construction” means a type of construction in which the vertical and horizontal structure elements are primarily formed by a system of repetitive members composed of combustible material. A multifamily dwelling may only be constructed using light framed combustible construction in a municipality with a population of fewer than 5,000 per square mile if (1) the dwelling is no more than three stories; (2) vertical fire barriers made of noncombustible materials with a minimum two-hour fire rating are installed in the walls between dwelling units and from other contiguous areas of the building; (3) horizontal fire barriers made of noncombustible materials with a minimum two-hour fire rating are installed between the floor of one unit and the ceiling of another; and (4) an automatic sprinkler system is installed throughout the structure in accordance with National Fire Protection Association standards.

To the extent that a multifamily dwelling is constructed using light framed combustible construction materials, such construction must have a fire watch guard present during all phases of construction, 24 hours per day, to (1) alert firefighters, medical, rescue, or law enforcement personnel if a fire or other emergency occurs; (2) maintain a record of activities performed in connection with the construction project that serve as a potential threat to fire safety; (3) make regular inspections of the construction; and (4) make regular patrols of the construction area.

Fire watch guards must submit any records maintained during a construction to OSFM. Additionally, OSFM may take appropriate action to abate any fire safety issues recorded by the fire watch guard, including requesting the revocation of a construction permit issued for the project.

Furthermore, construction projects involving a multifamily dwelling that uses light framed combustible construction materials must display at least one at least one sign between four and six feet above the ground affixed to the front of the exterior entrance that is (1) made of bright, reflective material and color; (2) measures at least 12 by 10 inches; (3) includes a letter “F” or “R” in bold, conspicuous writing indicating that the light framed combustible construction is in the floor or roof, respectively; and (4) includes a warning message that states:

“WARNING: This structure is built with light framed combustible construction known to the State of Maryland to pose a fire risk to occupants.”

The bill also establishes provisions relating to specified types of residential construction and limits the number of stories and per-story floor area for certain types of construction.

Current Law: DHCD is required to adopt, as MBPS, the most recent version of the International Building Code (IBC), including the International Energy Conservation Code (IECC), along with applicable modifications authorized in Title 12 of the Public Safety Article. Within 12 months of the release of each new version of IBC, DHCD is required to review the new version, consider modifications, and adopt specified modifications related to energy conservation and efficiency. DHCD is prohibited from adopting any modification that is more stringent than IBC, except that an energy conservation requirement may be more stringent than IECC. DHCD and local governments may also adopt by regulation the International Green Construction Code.

A local jurisdiction may adopt local amendments to MBPS if the local amendments do not (1) prohibit the minimum implementation and enforcement activities required by State law; (2) weaken the energy conservation and efficiency provisions; (3) except for specified exceptions, weaken the automatic fire sprinkler systems provisions for townhouses and one- and two-family dwellings; or (4) weaken the wind design and wind-borne debris provisions contained in the standards. If a local amendment conflicts with MBPS, the local amendment prevails in the local jurisdiction. A local jurisdiction that adopts a local amendment is required to ensure that the local amendment is adopted in accordance with applicable local law.

Local governments are responsible for the implementation and enforcement of MBPS, which includes, at a minimum, (1) review and acceptance of appropriate plans; (2) issuance of building permits; (3) inspection of work authorized by the building permits; and (4) issuance of appropriate use and occupy certificates. Any modification of MBPS adopted by the State must be implemented and enforced by a local jurisdiction no later than six months after the modifications are adopted by the State.

Under Maryland’s Public Safety Article, in a jurisdiction in which building permits are issued, a sprinkler system must be installed in (1) each newly constructed dormitory, hotel, lodging, or rooming house, or multifamily residential dwelling for which the initial building permit is issued on or after July 1, 1990, and (2) each newly constructed townhouse for which the initial building permit is issued on or after July 1, 1992. Dwelling units not serviced by public water systems are exempt from the requirement to have a sprinkler system.

Background: DHCD currently incorporates by reference the 2015 IBC, including the 2015 IECC, with modifications, as MBPS. In general, the standards apply to all buildings and structures within the State for which a building permit application is received by a local government.

ICC develops and publishes IBC. ICC was established in 1994 as a nonprofit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes, including IBC, which has been adopted by all 50 states as well as thousands of local jurisdictions.

State Expenditures: General fund expenditures for OSFM within the Department of State Police increase by \$786,889 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date. This estimate reflects the cost of hiring one deputy chief, one administrative aide, and five deputy fire marshals to train and certify fire watch guards and to audit construction sites to ensure compliance with the bill. It includes salaries; fringe benefits; one-time start-up costs, including the purchase of six vehicles; and ongoing operating expenses.

Positions	7
Salaries and Fringe Benefits	\$513,187
Vehicle Purchases	240,000
Equipment/Operating Expenses	<u>33,702</u>
Total FY 2017 State Expenditures	\$786,889

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Local Fiscal Effect: As local jurisdictions are responsible for implementation and enforcement of MBPS, affected local jurisdictions likely incur additional costs under the bill in order to ensure that the construction of new multifamily dwellings complies with the bill's requirements.

Because the bill limits the types of multifamily dwelling construction that may occur, it is possible that building permit fee revenues collected by some local jurisdictions could be affected. However, any such impact is speculative.

Small Business Effect: Small construction companies involved with affected projects incur additional personnel costs, as the bill requires the presence of a fire watch guard during all phases of construction, 24 hours per day, until a project is complete. On the other hand, small businesses that serve as fire watch guards benefit from an increase in the demand for their services. According to the Department of State Police, the estimated cost to hire a fire watch guard may total \$87,000 per project annually.

Developers are also likely affected as the bill may alter their plans for proposed developments in certain areas. Developers and construction companies may incur additional costs to modify building plans to accommodate the bill's restrictions and prohibitions. Any increase in costs are likely passed on to consumers in the form of higher prices.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Housing and Community Development; Department of Labor, Licensing, and Regulation; Department of State Police; Department of Legislative Services

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