

SENATE BILL 852

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7lr1843
CF HB 203

By: **Senator Ready**

Introduced and read first time: February 3, 2017

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Maryland Accessibility Code – Applicability**

3 FOR the purpose of clarifying that the Maryland Accessibility Code does not apply to a
4 change of use that is not a certain change of occupancy; and generally relating to the
5 Maryland Accessibility Code.

6 BY repealing and reenacting, with amendments,
7 Article – Public Safety
8 Section 12–202
9 Annotated Code of Maryland
10 (2011 Replacement Volume and 2016 Supplement)

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

13 **Article – Public Safety**

14 12–202.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) “Department” means the Department of Housing and Community
17 Development.

18 (3) “Historic property” means a qualified historic building or facility that
19 is:

20 (i) listed or eligible for listing in the National Register of Historic
21 Places; or

22 (ii) designated as historic under State or local law.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) THIS SECTION DOES NOT APPLY TO A CHANGE OF USE THAT IS NOT A**
2 **“CHANGE OF OCCUPANCY” AS DEFINED BY THE INTERNATIONAL EXISTING**
3 **BUILDING CODE.**

4 **[(b)] (C)** (1) The Department shall adopt by regulation a State building code
5 to make buildings and facilities accessible and usable by individuals with physical
6 disabilities to the extent feasible.

7 (2) The regulations shall be developed in conjunction with:

8 (i) the Maryland Department of Disabilities;

9 (ii) the Maryland Rehabilitation Association; and

10 (iii) the Maryland Society of Architects.

11 **[(c)] (D)** The Maryland Accessibility Code shall be enforced by local jurisdictions
12 or any other governmental units with authority over buildings or facilities.

13 **[(d)] (E)** The Department:

14 (1) shall decide questions of interpretation of the Maryland Accessibility
15 Code; and

16 (2) may authorize waivers or exemptions under the Maryland Accessibility
17 Code.

18 **[(e)] (F)** In addition to any other penalty for a violation of the Maryland
19 Accessibility Code, the Department shall investigate to determine if a violation exists.

20 **[(f)] (G)** (1) If the Department determines that a violation of the Maryland
21 Accessibility Code exists, the Department may resolve any issue related to the violation by
22 mediation and conciliation.

23 (2) In addition, the Department may bring an action for equitable or other
24 appropriate relief in a court in the jurisdiction in which the violation occurred, including
25 an action to enjoin the construction, renovation, or occupancy of a building or facility that
26 violates the Maryland Accessibility Code.

27 (3) Notwithstanding paragraph (2) of this subsection, the Department may
28 not seek an injunction until 5 working days after the Department has sought to resolve the
29 violation through mediation and conciliation.

30 **[(g)] (H)** The Attorney General may prosecute civil cases that arise under this
31 section that are referred to the Attorney General by the Department.

1 **[(h)] (I)** (1) The Department shall cooperate with and provide technical
2 assistance to the Commission on Civil Rights concerning an action brought by the
3 Commission on Civil Rights to enforce § 20–705 or § 20–706 of the State Government
4 Article.

5 (2) This section does not limit the authority of the Commission on Civil
6 Rights to enforce §§ 20–705 and 20–706 of the State Government Article.

7 **[(i)] (J)** (1) A person may not willfully violate the Maryland Accessibility
8 Code.

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

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

14 **[(j)] (K)** (1) This subsection does not apply to an aggrieved individual who
15 has an existing private right of action against a housing authority to enforce accessibility
16 requirements under:

17 (i) Section 504 of the federal Rehabilitation Act of 1973; or

18 (ii) the federal Americans with Disabilities Act of 1990.

19 (2) Subject to paragraph (3) of this subsection, an occupant, a dependent of
20 an occupant, or a prospective tenant who otherwise meets the requirements for tenancy
21 may commence a civil action in the District Court or circuit court to obtain relief for a
22 violation of the Maryland Accessibility Code with regard to a building of four or more
23 dwelling units that:

24 (i) is subject to the Maryland Accessibility Code; but

25 (ii) is not a historic property.

26 (3) At least 30 days before filing a complaint under this subsection, an
27 occupant, a dependent of an occupant, or a prospective tenant who otherwise meets the
28 requirements for tenancy shall provide written notice to the property manager, landlord,
29 or rental agent that:

30 (i) states that the occupant, dependent of an occupant, or
31 prospective tenant who otherwise meets the requirements for tenancy needs accessibility;

32 (ii) identifies the location of the multifamily building that is alleged
33 to be noncompliant; and

1 (iii) states that the owner of the multifamily building has 30 days
2 from the date of the notice to make arrangements to bring the multifamily building into
3 compliance.

4 (4) In an action brought under this subsection, if the court finds that a
5 violation of the Maryland Accessibility Code has occurred, the court may:

6 (i) grant relief as the court considers appropriate, including
7 injunctive relief;

8 (ii) award the prevailing party reasonable attorney's fees and costs;
9 and

10 (iii) award the prevailing party actual damages.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2017.