

---

By: **Senator Stoltzfus**  
Introduced and read first time: February 18, 1999  
Assigned to: Rules

---

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Building Performance Standards - Adoption of State Building**  
3 **Code**

4 FOR the purpose of requiring the Department of Housing and Community  
5 Development to adopt by regulation the State Building Code as the Maryland  
6 Building Performance Standards; altering the time in which the Maryland  
7 Building Performance Standards shall apply to certain buildings and structures  
8 within certain counties and municipalities; requiring the Department to review  
9 the State Building Code to determine whether certain modifications should be  
10 incorporated into the Maryland Performance Standards; prohibiting the  
11 Department from adopting as part of the Maryland Building Performance  
12 Standards a modification of a building code requirement that is more stringent  
13 than the requirement in the State Building Code; requiring the Department to  
14 notify local jurisdictions of changes in the State Building Code and the impact  
15 the changes will have on the local amendments in each local jurisdiction;  
16 authorizing the Department to compile and include in a central database certain  
17 interim amendments to the State Building Code; defining certain terms; and  
18 generally relating to the incorporation of the State Building Code into the  
19 Maryland Building Performance Standards.

20 BY repealing and reenacting, with amendments,  
21 Article 83B - Department of Housing and Community Development  
22 Section 6-401, 6-402, 6-403, and 6-405  
23 Annotated Code of Maryland  
24 (1998 Replacement Volume)

25 BY repealing and reenacting, without amendments,  
26 Article 83B - Department of Housing and Community Development  
27 Section 6-404 and 6-406  
28 Annotated Code of Maryland  
29 (1998 Replacement Volume)

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

**Article 83B - Department of Housing and Community Development**

2 6-401.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) "BOCA" means the organization known as the Building Officials and Code  
5 Administrators International, Inc.

6 (c) (1) "BOCA National Building Code" means the first printing of the most  
7 recent edition of the National Building Code periodically issued by BOCA.

8 (2) "BOCA National Building Code" does not include interim  
9 amendments or subsequent printings of the most recent edition.

10 (d) "Building" has the meaning and interpretation set forth in the BOCA  
11 National Building Code.

12 (e) "County" means any of the 23 counties of the State and the Mayor and City  
13 Council of Baltimore.

14 (F) "ICC" MEANS THE ORGANIZATION KNOWN AS THE INTERNATIONAL CODE  
15 COUNCIL.

16 (G) (1) "INTERNATIONAL BUILDING CODE" MEANS THE FIRST PRINTING OF  
17 THE MOST RECENT EDITION OF THE INTERNATIONAL BUILDING CODE TO BE ISSUED  
18 PERIODICALLY BY ICC.

19 (2) "INTERNATIONAL BUILDING CODE" DOES NOT INCLUDE INTERIM  
20 AMENDMENTS OR SUBSEQUENT PRINTINGS OF THE MOST RECENT EDITION.

21 [(f)] (H) "Local jurisdiction" means the county or municipality responsible for  
22 implementation and enforcement of the Maryland Building Performance Standards  
23 as more specifically provided in § 6-402(f) of this subtitle.

24 [(g)] (I) "Maryland Building Performance Standards" or "Standards" means  
25 the [BOCA National] STATE Building Code adopted by the Department under §  
26 6-402 of this subtitle.

27 [(h)] (J) "Municipality" means a municipal corporation subject to the  
28 provisions of Article XI-E of the State Constitution.

29 [(i)] (K) "Standard Building Code" means the standard building code issued  
30 by the Southern Building Code Congress International, Inc.

31 (L) (1) "STATE BUILDING CODE" MEANS THE FIRST PRINTING OF THE MOST  
32 RECENT EDITION OF THE INTERNATIONAL BUILDING CODE ISSUED BY ICC.

33 (2) IF THE INTERNATIONAL BUILDING CODE IS NOT ISSUED BY ICC,  
34 THEN THE MOST RECENT EDITION OF THE NATIONAL BUILDING CODE  
35 PERIODICALLY ISSUED BY BOCA WILL PREVAIL.

1 [(j)] (M) "State Fire Prevention Code" means the fire prevention regulations  
2 promulgated by the State Fire Prevention Commission in accordance with Article  
3 38A, § 3 of the Code.

4 [(k)] (N) "Structure" has the meaning and interpretation set forth in the  
5 [BOCA National] STATE Building Code.

6 6-402.

7 (a) The Department shall adopt by regulation, as the Maryland Building  
8 Performance Standards, the [BOCA National] STATE Building Code with the  
9 modifications incorporated by the Department under § 6-403 of this subtitle.

10 (b) (1) The Department shall adopt the initial version of the Maryland  
11 Building Performance Standards on or before August 1, 1994.

12 (2) (I) The Department shall adopt all subsequent versions of the  
13 Standards within 9 months of the date [BOCA] ICC issues the [BOCA National]  
14 INTERNATIONAL Building Code.

15 (II) IF THE INTERNATIONAL BUILDING CODE IS NOT ISSUED BY ICC,  
16 THEN THE MOST RECENT EDITION OF THE NATIONAL BUILDING CODE SHALL BE  
17 ADOPTED WITHIN 9 MONTHS OF THE ISSUE DATE OF THE NATIONAL BUILDING CODE  
18 PERIODICALLY ISSUED BY BOCA.

19 (c) (1) Except as otherwise provided in this subsection, the Maryland  
20 Building Performance Standards shall apply to all buildings and structures within  
21 the State for which a building permit application is received by a local jurisdiction on  
22 or after August 1, 1995.

23 (2) In counties or municipalities that have not adopted a building code as  
24 of October 1, 1992, the Standards shall apply to all buildings and structures for which  
25 a building permit application is received by the local jurisdiction on or after August 1,  
26 1997.

27 (3) In counties or municipalities that have adopted the standard building  
28 code as of October 1, 1993, the Standards shall apply to all buildings and structures  
29 for which a building permit application is received by the local jurisdiction on or after  
30 August 1, [1999] 2000.

31 (4) (i) If the Department has not provided funding to a county or  
32 municipality to cover all direct and reasonable costs necessary for converting or  
33 establishing local systems to implement the Standards, then the provisions of this  
34 subsection shall be void and without effect as to the particular county or municipality  
35 until the time that the needed funds are made available by the Department.

36 (ii) 1. In this paragraph "costs" means expenses associated with  
37 hardware, software, training, technical assistance, or other direct expenses that a  
38 county or municipality incurs to implement the Standards.



1           (2)     The manner in which the minimum implementation and enforcement  
2 activities set forth in paragraph (1) of this subsection are carried out shall be  
3 determined by the local jurisdiction.

4           (3)     Nothing in this subtitle may be construed to permit or encourage the  
5 State to initiate or assume an independent role in the administration and  
6 enforcement of the Maryland Building Performance Standards for a building or  
7 structure within the State, a county, or a municipality that is not owned or operated  
8 by the State.

9       (f)     (1)     Except as otherwise provided in this subsection the county in which a  
10 structure is situated is responsible for implementation and enforcement of the  
11 Maryland Building Performance Standards in accordance with this subtitle.

12           (2)     (i)     A municipality that has not adopted a building code as of  
13 October 1, 1992 may elect to implement and enforce the Maryland Building  
14 Performance Standards in accordance with this subtitle for structures located within  
15 the municipality.

16                   (ii)     If a municipality elects to implement and enforce the Standards  
17 under subparagraph (i) of this paragraph, the county, in which the municipality is  
18 located, is not responsible for implementation and enforcement of the standards  
19 within the municipality.

20           (3)     A county that has not adopted a building code as of October 1, 1992 is  
21 responsible for implementation and enforcement of the Maryland Building  
22 Performance Standards within the county unless it elects to negotiate with a  
23 municipality located within the county to have the municipality implement and  
24 enforce the Standards within the county.

25           (4)     A municipality that has adopted a building code as of October 1, 1992  
26 is responsible for implementation and enforcement of the Maryland Building  
27 Performance Standards within the municipality unless it elects to negotiate with the  
28 county in which the municipality is located to have the county implement and enforce  
29 the Standards within the municipality.

30       (g)     A local jurisdiction may charge fees necessary to cover the cost of  
31 implementation and enforcement of the Maryland Building Performance Standards  
32 and any local amendments to the Standards.

33       (h)     This subtitle may not be construed to alter or abrogate any existing zoning  
34 power or related authority that municipalities and counties may exercise as of  
35 October 1, 1993.

36 6-403.

37       (a)     Before adopting the Maryland Building Performance Standards or any  
38 subsequent versions of the standards, the Department shall:

1 (1) Review the [BOCA National] STATE Building Code to determine  
2 whether modifications should be incorporated in the Maryland Building Performance  
3 Standards;

4 (2) Accept written comments and hold a public hearing on any proposed  
5 modification; and

6 (3) Take into consideration comments received before adopting the  
7 Maryland Building Performance Standards.

8 (b) The Department may not adopt, as part of the Maryland Building  
9 Performance Standards, a modification of a building code requirement that is more  
10 stringent than the requirement in the [BOCA National] STATE Building Code.

11 6-404.

12 (a) The Department shall:

13 (1) Establish and maintain a central automated data base that, at a  
14 minimum, contains:

15 (i) The Maryland Building Performance Standards;

16 (ii) Local amendments to the Maryland Building Performance  
17 Standards;

18 (iii) The State Fire Prevention Code and any amendments to the  
19 code promulgated by the State Fire Prevention Commission;

20 (iv) Fire codes adopted by counties and municipalities and any  
21 amendments;

22 (v) The Electrical Code required under Article 38A, §§ 59 and 60 of  
23 the Code;

24 (vi) Local amendments to the Electrical Code required under Article  
25 38A, §§ 59 and 60 of the Code;

26 (vii) The Energy Code required under Title 7, Subtitle 4 of the Public  
27 Utility Companies Article;

28 (viii) Local code provisions that are more restrictive than the Energy  
29 Code required under Title 7, Subtitle 4 of the Public Utility Companies Article; and

30 (ix) Information compiled by the Department under § 6-405(b)(1) of  
31 this subtitle;

32 (2) Make information from the data base available to any county,  
33 municipality, State unit or other interested party; and

1 (3) Purchase or otherwise provide a local jurisdiction with the necessary  
2 hardware or software to enable the local jurisdiction to access the information in the  
3 central automated data base.

4 (b) (1) The Department may charge a fee for information provided from the  
5 data base except that a fee may not be charged to State units, counties, or  
6 municipalities. If any fees are unexpended at the end of the fiscal year, the fees shall  
7 not revert to the General Fund of the State, but instead shall be maintained as special  
8 funds available to the Department for carrying out the purposes of this subtitle.

9 (2) The Department may not charge a fee to a county or municipality to  
10 cover or support the ongoing maintenance or upkeep of the data base.

11 (c) A local jurisdiction shall furnish to the Department:

12 (1) On or before December 31, 1993, a copy of its duly adopted local fire  
13 code; and

14 (2) Within 15 days of its effective date, any amendment to the local fire  
15 code.

16 (d) A local jurisdiction shall furnish to the Department:

17 (1) On or before January 1, 1997, a copy of its duly adopted local  
18 amendments to the Electrical Code required under Article 38A, §§ 59 and 60 of the  
19 Code; and

20 (2) Within 15 days of its effective date, any additional amendment to the  
21 Electrical Code required under Article 38A, §§ 59 and 60 of the Code.

22 (e) A local jurisdiction shall furnish to the Department:

23 (1) On or before January 1, 1997, a copy of its duly adopted local code  
24 provisions that are more restrictive than the Energy Code required under Title 7,  
25 Subtitle 4 of the Public Utility Companies Article; and

26 (2) Within 15 days of its effective date, any additional amendment to  
27 local code provisions that is more restrictive than the Energy Code required under  
28 Title 7, Subtitle 4 of the Public Utility Companies Article.

29 6-405.

30 (a) The Department shall:

31 (1) Coordinate with local building officials, the State Fire Marshal's  
32 office, and local fire officials in compiling information for the central data base  
33 established under § 6-404 of this subtitle;

34 (2) Notify local jurisdictions of changes to the [BOCA National] STATE  
35 Building Code and the impact such changes will have on the local amendments in  
36 each local jurisdiction;

1 (3) Include in the central data base proposed State or federal legislation  
2 of which the Department is aware and that directly affects the construction industry;

3 (4) In conjunction with the Maryland Building Officials Association and  
4 other interested organizations, provide training for local building officials on the  
5 Maryland Building Performance Standards and certify the participation of local  
6 building officials in the training; and

7 (5) On request, provide local jurisdictions with technical assistance  
8 concerning the implementation and enforcement of the Maryland Building  
9 Performance Standards.

10 (b) The Department may:

11 (1) Compile and include in the central data base established under §  
12 6-404(a) of this subtitle:

13 (i) Any information provided by local jurisdictions on the  
14 implementation and interpretation of the Maryland Building Performance Standards  
15 by local jurisdictions; and

16 (ii) Interim amendments to the [BOCA National] STATE Building  
17 Code including subsequent printings of the most recent edition;

18 (2) Develop a voluntary forum that may be used, at the request of a local  
19 jurisdiction, to resolve conflicts involving the Maryland Building Performance  
20 Standards; and

21 (3) Adopt regulations to carry out the purposes of this subtitle.

22 6-406.

23 (a) This subtitle may not be construed to alter or abrogate the authority of the  
24 State Board of Plumbing to adopt and enforce the State Plumbing Code under Title 12  
25 of the Business Occupations and Professions Article.

26 (b) This subtitle may not be construed to alter or abrogate the authority of the  
27 State Board of Heating, Ventilation, Air Conditioning and Refrigeration Contractors  
28 to adopt and enforce the State Heating, Ventilation, Air Conditioning and  
29 Refrigeration Code under Title 9A of the Business Regulation Article.

30 (c) This subtitle may not be construed to alter or abrogate the authority of the  
31 Commissioner of Labor and Industry to adopt and enforce standards under Article 89,  
32 § 49B of the Code.

33 (d) This subtitle may not be construed to alter or abrogate the authority of:

34 (1) The State Fire Prevention Commission to enforce the Electrical Code  
35 under Article 38A, §§ 59 and 60 of the Code; or



1                   (2)       The Public Service Commission to enforce the Energy Code required  
2 under Title 7, Subtitle 4 of the Public Utility Companies Article.

3       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 1999.