
By: **Senator Stoltzfus**

Introduced and read first time: February 18, 1999

Assigned to: Rules

Re-referred to: Economic and Environmental Affairs, February 22, 1999

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 16, 1999

CHAPTER _____

1 AN ACT concerning

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

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; altering the time period in which~~
20 ~~the Department of Housing and Community Development must incorporate~~
21 ~~subsequent versions of the BOCA National Building Code into the Maryland~~
22 ~~Building Performance Standards; and altering the date on which the Maryland~~
23 ~~Building Performance Standards shall apply to counties or municipalities that~~
24 ~~have adopted the standard building code issued by the Southern Building Code~~
25 ~~Congress International, Inc.~~

26 BY repealing and reenacting, ~~with~~ without amendments,

1 Article 83B - Department of Housing and Community Development
 2 Section 6-401; and ~~6-402, 6-403, and 6-405~~(a) and (c)(1) and (2)
 3 Annotated Code of Maryland
 4 (1998 Replacement Volume)

5 BY repealing and reenacting, ~~without~~ with amendments,
 6 Article 83B - Department of Housing and Community Development
 7 Section ~~6-404 and 6-406~~ 6-402(b) and (c)(3)
 8 Annotated Code of Maryland
 9 (1998 Replacement Volume)

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

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

13 6-401.

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

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

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

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

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

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

25 ~~(F) "ICC" MEANS THE ORGANIZATION KNOWN AS THE INTERNATIONAL CODE~~
 26 ~~COUNCIL.~~

27 ~~(G) (1) "INTERNATIONAL BUILDING CODE" MEANS THE FIRST PRINTING OF~~
 28 ~~THE MOST RECENT EDITION OF THE INTERNATIONAL BUILDING CODE TO BE ISSUED~~
 29 ~~PERIODICALLY BY ICC.~~

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

32 ~~{(f)}~~ ~~(H)~~ "Local jurisdiction" means the county or municipality responsible for
 33 implementation and enforcement of the Maryland Building Performance Standards
 34 as more specifically provided in § 6-402(f) of this subtitle.

1 {(g)} ~~(G)~~ "Maryland Building Performance Standards" or "Standards" means
 2 the ~~{BOCA National}~~STATE Building Code adopted by the Department under §
 3 6-402 of this subtitle.

4 {(h)} ~~(H)~~ "Municipality" means a municipal corporation subject to the
 5 provisions of Article XI-E of the State Constitution.

6 {(i)} ~~(I)~~ "Standard Building Code" means the standard building code issued
 7 by the Southern Building Code Congress International, Inc.

8 ~~(L)~~ ~~(+)~~ ~~"STATE BUILDING CODE" MEANS THE FIRST PRINTING OF THE MOST~~
 9 ~~RECENT EDITION OF THE INTERNATIONAL BUILDING CODE ISSUED BY ICC.~~

10 ~~(2)~~ ~~IF THE INTERNATIONAL BUILDING CODE IS NOT ISSUED BY ICC,~~
 11 ~~THEN THE MOST RECENT EDITION OF THE NATIONAL BUILDING CODE~~
 12 ~~PERIODICALLY ISSUED BY BOCA WILL PREVAIL.~~

13 {(j)} ~~(M)~~ "State Fire Prevention Code" means the fire prevention regulations
 14 promulgated by the State Fire Prevention Commission in accordance with Article
 15 38A, § 3 of the Code.

16 {(k)} ~~(N)~~ "Structure" has the meaning and interpretation set forth in the
 17 ~~{BOCA National}~~STATE Building Code.

18 6-402.

19 (a) The Department shall adopt by regulation, as the Maryland Building
 20 Performance Standards, the ~~{BOCA National}~~STATE Building Code with the
 21 modifications incorporated by the Department under § 6-403 of this subtitle.

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

24 (2) ~~(+)~~ The Department shall adopt all subsequent versions of the
 25 Standards within ~~9~~24 months of the date ~~{BOCA}~~ICC issues the ~~{BOCA National}~~
 26 ~~INTERNATIONAL~~ Building Code.

27 ~~(H)~~ ~~IF THE INTERNATIONAL BUILDING CODE IS NOT ISSUED BY ICC,~~
 28 ~~THEN THE MOST RECENT EDITION OF THE NATIONAL BUILDING CODE SHALL BE~~
 29 ~~ADOPTED WITHIN 9 MONTHS OF THE ISSUE DATE OF THE NATIONAL BUILDING CODE~~
 30 ~~PERIODICALLY ISSUED BY BOCA.~~

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

35 (2) In counties or municipalities that have not adopted a building code as
 36 of October 1, 1992, the Standards shall apply to all buildings and structures for which

1 a building permit application is received by the local jurisdiction on or after August 1,
2 1997.

3 (3) In counties or municipalities that have adopted the standard building
4 code as of October 1, 1993, the Standards shall apply to all buildings and structures
5 for which a building permit application is received by the local jurisdiction on or after
6 August 1, [1999] ~~2000~~ 2001.

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

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

15 2. ~~In this paragraph "costs" does not include expenses that a
16 county or municipality would incur without implementation of the Standards.~~

17 (5) ~~A local jurisdiction may implement and enforce the Maryland
18 Building Performance Standards and any local amendment on or before the dates
19 specified in this subsection for application of the Standards.~~

20 (d) (1) ~~A local jurisdiction may adopt local amendments to the Maryland
21 Building Performance Standards provided that the amendments may not prohibit the
22 minimum implementation and enforcement activities set forth in subsection (e) of this
23 section.~~

24 (2) ~~If a local jurisdiction adopts a local amendment to the Maryland
25 Building Performance Standards, the Standards as amended by the local jurisdiction
26 shall apply within the local jurisdiction.~~

27 (3) ~~If a local amendment conflicts with the provisions of the Maryland
28 Building Performance Standards, the provisions of the local amendment shall prevail
29 in the local jurisdiction.~~

30 (4) ~~In adopting a local amendment to the Maryland Building
31 Performance Standards a local jurisdiction shall:~~

32 (i) ~~Ensure that the amendment is adopted in accordance with
33 applicable local laws and regulations; and~~

34 (ii) ~~In order to enable the central data base established under §
35 6-404 of this subtitle to remain current, furnish a copy of the amendment to the
36 Department;~~

37 1. ~~At least 15 days before the effective date of the
38 amendment; or~~

1 county in which the municipality is located to have the county implement and enforce
2 the Standards within the municipality.

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

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

9 6-403.

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

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

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

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

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

22 6-404.

23 (a) The Department shall:

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

26 (i) The Maryland Building Performance Standards;

27 (ii) Local amendments to the Maryland Building Performance
28 Standards;

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

31 (iv) Fire codes adopted by counties and municipalities and any
32 amendments;

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

- 1 (vi) Local amendments to the Electrical Code required under Article
2 38A, §§ 59 and 60 of the Code;
- 3 (vii) The Energy Code required under Title 7, Subtitle 4 of the Public
4 Utility Companies Article;
- 5 (viii) Local code provisions that are more restrictive than the Energy
6 Code required under Title 7, Subtitle 4 of the Public Utility Companies Article; and
- 7 (ix) Information compiled by the Department under § 6-405(b)(1) of
8 this subtitle;
- 9 (2) Make information from the data base available to any county,
10 municipality, State unit or other interested party; and
- 11 (3) Purchase or otherwise provide a local jurisdiction with the necessary
12 hardware or software to enable the local jurisdiction to access the information in the
13 central automated data base.
- 14 (b) (1) The Department may charge a fee for information provided from the
15 data base except that a fee may not be charged to State units, counties, or
16 municipalities. If any fees are unexpended at the end of the fiscal year, the fees shall
17 not revert to the General Fund of the State, but instead shall be maintained as special
18 funds available to the Department for carrying out the purposes of this subtitle.
- 19 (2) The Department may not charge a fee to a county or municipality to
20 cover or support the ongoing maintenance or upkeep of the data base.
- 21 (c) A local jurisdiction shall furnish to the Department:
- 22 (1) On or before December 31, 1993, a copy of its duly adopted local fire
23 code; and
- 24 (2) Within 15 days of its effective date, any amendment to the local fire
25 code.
- 26 (d) A local jurisdiction shall furnish to the Department:
- 27 (1) On or before January 1, 1997, a copy of its duly adopted local
28 amendments to the Electrical Code required under Article 38A, §§ 59 and 60 of the
29 Code; and
- 30 (2) Within 15 days of its effective date, any additional amendment to the
31 Electrical Code required under Article 38A, §§ 59 and 60 of the Code.
- 32 (e) A local jurisdiction shall furnish to the Department:
- 33 (1) On or before January 1, 1997, a copy of its duly adopted local code
34 provisions that are more restrictive than the Energy Code required under Title 7,
35 Subtitle 4 of the Public Utility Companies Article; and

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

4 ~~6-405.~~

5 (a) The Department shall:

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

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

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

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

18 (5) On request, provide local jurisdictions with technical assistance
19 concerning the implementation and enforcement of the Maryland Building
20 Performance Standards.

21 (b) The Department may:

22 (1) Compile and include in the central data base established under §
23 ~~6-404(a)~~ of this subtitle:

24 (i) Any information provided by local jurisdictions on the
25 implementation and interpretation of the Maryland Building Performance Standards
26 by local jurisdictions; and

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

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

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

33 ~~6-406.~~

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

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

5 (c) This subtitle may not be construed to alter or abrogate the authority of the
6 Commissioner of Labor and Industry to adopt and enforce standards under Article 89,
7 § 49B of the Code.

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

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

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

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 ~~October 1~~ July 1, 1999.