

HOUSE BILL 998

E4, C8, O3

9lr0746
CF 9lr1053

By: **Delegates Niemann, Lafferty, Gilchrist, Benson, Carr, V. Clagett, Glenn, Gutierrez, Healey, Hecht, Hucker, Manno, Montgomery, Rosenberg, and Stukes**

Introduced and read first time: February 13, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Housing – Maryland Building Performance Standards – Minimum Features**
3 **for Accessibility**

4 FOR the purpose of requiring the Department of Housing and Community
5 Development to include in the Maryland Building Performance Standards
6 certain minimum features for accessibility applicable to certain new
7 single-family residential real property; clarifying the authority of a local
8 jurisdiction to adopt local amendments to the Standards; requiring a local
9 jurisdiction to adopt a certain procedure for a permit applicant to obtain a
10 waiver from certain minimum features for accessibility under certain
11 circumstances; requiring a local jurisdiction to submit to the Department a copy
12 of a certain local waiver procedure within a certain time; requiring the
13 Department to include in a certain database certain local waiver procedures;
14 requiring the Department to report to the General Assembly on or before
15 certain dates; requiring the Department to request a certain statement from a
16 certain institute on or before a certain date; making certain provisions of this
17 Act subject to a certain contingency; and generally relating to minimum
18 features for accessibility in housing.

19 BY repealing and reenacting, with amendments,
20 Article – Public Safety
21 Section 12–503, 12–504, 12–505, and 12–506
22 Annotated Code of Maryland
23 (2003 Volume and 2008 Supplement)

24 BY adding to
25 Article – Public Safety
26 Section 12–503.1
27 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2003 Volume and 2008 Supplement)

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

4 **Article – Public Safety**

5 12–503.

6 (a) (1) The Department shall adopt by regulation, as the Maryland
7 Building Performance Standards, the International Building Code with the
8 modifications incorporated by the Department under subsection (b) of this section.

9 (2) The Department shall adopt each subsequent version of the
10 Standards within 12 months after it is issued.

11 (b) (1) Before adopting each version of the Standards, the Department
12 shall:

13 (i) review the International Building Code to determine
14 whether modifications should be incorporated in the Standards;

15 (ii) accept written comments;

16 (iii) consider any comments received; and

17 (iv) hold a public hearing on each proposed modification.

18 (2) **[The] EXCEPT AS PROVIDED IN § 12–503.1 OF THIS SUBTITLE,**
19 **THE** Department may not adopt, as part of the Standards, a modification of a building
20 code requirement that is more stringent than the requirement in the International
21 Building Code.

22 (c) The Standards apply to each building or structure in the State for which
23 a building permit application is received by a local jurisdiction on or after August 1,
24 1995.

25 **12–503.1.**

26 **(A) THIS SECTION APPLIES ONLY TO NEW SINGLE–FAMILY RESIDENTIAL**
27 **REAL PROPERTY, CONSISTING OF THREE OR FEWER DWELLING UNITS.**

28 **(B) THE DEPARTMENT SHALL INCLUDE IN THE STANDARDS THE**
29 **MINIMUM FEATURES FOR ACCESSIBILITY FOR A TYPE C DWELLING UNIT FOUND**
30 **IN THE MOST RECENT EDITION OF THE ANSI A117.1 STANDARD PREPARED BY**
31 **THE AMERICAN NATIONAL STANDARDS INSTITUTE.**

1 12-504.

2 (a) A local jurisdiction may adopt local amendments to the Standards,
3 **INCLUDING THE MINIMUM FEATURES FOR ACCESSIBILITY IDENTIFIED UNDER §**
4 **12-503.1 OF THIS SUBTITLE**, if the local amendments do not prohibit the minimum
5 implementation and enforcement activities set forth in § 12-505 of this subtitle.

6 (b) If a local jurisdiction adopts a local amendment to the Standards, the
7 Standards as amended by the local jurisdiction apply in the local jurisdiction.

8 (c) If a local amendment conflicts with the Standards, the local amendment
9 prevails in the local jurisdiction.

10 (d) A local jurisdiction that adopts a local amendment to the Standards shall
11 ensure that the local amendment is adopted in accordance with applicable local law.

12 (e) To keep the database established under this subtitle current, a local
13 jurisdiction that adopts a local amendment to the Standards shall provide a copy of
14 the local amendment to the Department:

15 (1) at least 15 days before the effective date of the amendment; or

16 (2) within 5 days after the adoption of an emergency local amendment.

17 12-505.

18 (a) (1) Each local jurisdiction shall implement and enforce the Standards
19 and any local amendments to the Standards.

20 (2) At a minimum, the local jurisdiction shall ensure that
21 implementation and enforcement of the Standards includes:

22 (i) review and acceptance of appropriate plans;

23 (ii) issuance of building permits;

24 (iii) inspection of the work authorized by the building permits;

25 and

26 (iv) issuance of appropriate use and occupancy certificates.

27 (3) **[Each] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS**
28 **SECTION, EACH** local jurisdiction shall determine the manner in which the minimum
29 implementation and enforcement activities of this subsection are carried out.

1 (b) (1) Except as otherwise provided in this subsection, the county in
2 which a building or structure is located shall implement and enforce the Standards for
3 that building or structure in accordance with this subtitle.

4 (2) (i) A municipal corporation that did not adopt a building code
5 on or before October 1, 1992, may elect to implement and enforce the Standards in
6 accordance with this subtitle for buildings or structures located in the municipal
7 corporation.

8 (ii) If a municipal corporation elects to implement and enforce
9 the Standards under this paragraph, the county in which the municipal corporation is
10 located is not responsible for implementation and enforcement of the Standards in the
11 municipal corporation.

12 (3) A county that did not adopt a building code on or before October 1,
13 1992, shall implement and enforce the Standards in the county unless it elects to
14 negotiate with a municipal corporation in the county to have the municipal
15 corporation implement and enforce the Standards in the county.

16 (4) A municipal corporation that adopted a building code on or before
17 October 1, 1992, shall implement and enforce the Standards in the municipal
18 corporation unless it elects to negotiate with the county in which the municipal
19 corporation is located to have the county implement and enforce the Standards in the
20 municipal corporation.

21 (c) A local jurisdiction may charge fees necessary to cover the cost of
22 implementation and enforcement of the Standards and any local amendments to the
23 Standards.

24 **(D) (1) A LOCAL JURISDICTION SHALL ADOPT A PROCEDURE FOR A**
25 **PERMIT APPLICANT TO OBTAIN A WAIVER FROM THE MINIMUM FEATURES FOR**
26 **ACCESSIBILITY REQUIRED UNDER § 12-503.1 OF THIS SUBTITLE.**

27 **(2) (I) A LOCAL JURISDICTION MAY NOT GRANT A WAIVER**
28 **GENERALLY AS TO ALL MINIMUM FEATURES FOR ACCESSIBILITY REQUIRED**
29 **UNDER § 12-503.1 OF THIS SUBTITLE.**

30 **(II) A WAIVER MAY BE GRANTED ONLY AS TO ONE OR MORE**
31 **PARTICULAR MINIMUM FEATURES FOR ACCESSIBILITY.**

32 **(3) A LOCAL WAIVER PROCEDURE SHALL INCLUDE:**

33 **(I) A REQUIREMENT THAT THE APPLICANT SUBMIT A**
34 **WAIVER REQUEST IN WRITING, DOCUMENTING WHY A WAIVER IS NECESSARY,**
35 **WITH REFERENCE TO SPECIFIC REQUIREMENTS AND FACTORS; AND**

1 (II) A REQUIREMENT THAT THE LOCAL JURISDICTION
2 APPROVE OR DISAPPROVE THE WAIVER REQUEST IN WRITING, WITH
3 REFERENCE TO SPECIFIC REQUIREMENTS AND FACTORS.

4 (4) A LOCAL JURISDICTION SHALL SUBMIT TO THE DEPARTMENT
5 A COPY OF THE LOCAL WAIVER PROCEDURE, AND ANY AMENDMENT TO THE
6 LOCAL WAIVER PROCEDURE, WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF
7 THE LOCAL WAIVER PROCEDURE OR AMENDMENT TO THE LOCAL WAIVER
8 PROCEDURE.

9 12-506.

10 (a) The Department shall maintain a central automated database in
11 accordance with this section.

12 (b) (1) At a minimum, the Department shall include in the database:

13 (i) the Standards;

14 (ii) local amendments to the Standards;

15 (iii) the State Fire Prevention Code adopted by the State Fire
16 Prevention Commission under Title 6 of this article;

17 (iv) fire prevention codes adopted by local jurisdictions;

18 (v) the Electrical Code required under Subtitle 6 of this title;

19 (vi) local amendments to the Electrical Code;

20 (vii) the Energy Code defined under the Energy Conservation
21 Building Standards Act, Title 7, Subtitle 4 of the Public Utility Companies Article;

22 (viii) local code provisions that are more restrictive than the
23 Energy Code defined under the Energy Conservation Building Standards Act;

24 (ix) information compiled by the Department under paragraph
25 (2) of this subsection;

26 (x) the Maryland Building Rehabilitation Code;

27 (xi) local amendments to the Maryland Building Rehabilitation
28 Code; [and]

29 (xii) proposed federal or State legislation of which the
30 Department is aware and that directly affects the construction industry; **AND**

1 **(XIII) LOCAL WAIVER PROCEDURES AND ANY AMENDMENTS**
2 **TO A LOCAL WAIVER PROCEDURE, AS REQUIRED UNDER § 12-505(D) OF THIS**
3 **SUBTITLE.**

4 (2) The Department may compile and include in the database:

5 (i) any information provided by a local jurisdiction on the
6 implementation and interpretation of the Standards by the local jurisdiction; and

7 (ii) interim amendments to the International Building Code
8 including subsequent printings of the most recent edition.

9 (c) The Department shall:

10 (1) make information from the database available to a local
11 jurisdiction, State unit, or other interested party;

12 (2) provide each local jurisdiction with the necessary hardware or
13 software to enable the local jurisdiction to access the information in the database; and

14 (3) coordinate with local building officials, the State Fire Marshal, and
15 local fire officials in compiling information for the database.

16 (d) (1) (i) Except as provided in subparagraph (ii) of this paragraph,
17 the Department may charge a fee for information provided from the database.

18 (ii) The Department may not charge a fee to a State unit or local
19 jurisdiction.

20 (2) The Department may not charge a fee to a local jurisdiction for the
21 ongoing maintenance of the database.

22 (3) Fees collected in accordance with this subsection unexpended at
23 the end of the fiscal year do not revert to the General Fund, but shall be kept in a
24 special fund available to the Department to carry out this subtitle.

25 (e) (1) A local jurisdiction shall provide to the Department a copy of each
26 amendment to the local jurisdiction's fire prevention code or Electrical Code within 15
27 days after the effective date of the amendment.

28 (2) A local jurisdiction shall provide to the Department a copy of each
29 amendment to the local jurisdiction's energy code that is more restrictive than the
30 Energy Code defined under the Energy Conservation Building Standards Act within
31 15 days after the effective date of the amendment.

32 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 1,
33 2011, and January 1, 2012, the Department of Housing and Community Development

1 shall report to the General Assembly, in accordance with § 2-1246 of the State
2 Government Article, on:

3 (a) the effective date and scope of any local amendments to the Maryland
4 Building Performance Standards authorized under § 12-504 of the Public Safety
5 Article regarding minimum features for accessibility required under § 12-503.1 of the
6 Public Safety Article; and

7 (b) the effective date and primary provisions of the local waiver procedures
8 required under § 12-505(d) of the Public Safety Article regarding minimum features
9 for accessibility required under § 12-503.1 of the Public Safety Article.

10 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 1,
11 2010, the Department of Housing and Community Development shall request a
12 statement from the American National Standards Institute as to whether or not the
13 final 2009 ANSI A117.1 standard includes the Type C dwelling unit technical criteria.

14 SECTION 4. AND BE IT FURTHER ENACTED, That:

15 (a) If the Department of Housing and Community Development receives a
16 statement from the American National Standards Institute in accordance with Section
17 3 of this Act that states that the final 2009 ANSI A117.1 standard includes the Type C
18 dwelling unit technical criteria, Sections 1 and 2 of this Act shall take effect 30 days
19 after the Department of Housing and Community Development receives the
20 statement.

21 (b) If the Department of Housing and Community Development receives a
22 statement from the American National Standards Institute in accordance with Section
23 3 of this Act that states that the final 2009 ANSI A117.1 standard does not include the
24 Type C dwelling unit technical criteria, Sections 1 and 2 of this Act, with no further
25 action required by the General Assembly, shall be null and void and of no force and
26 effect.

27 (c) The Department of Housing and Community Development, within 5 days
28 after receiving a statement from the American National Standards Institute, shall
29 forward a copy of the statement to:

30 (1) the Senate Education, Health, and Environmental Affairs
31 Committee and the House Environmental Matters Committee, in accordance with §
32 2-1246 of the State Government Article; and

33 (2) the Department of Legislative Services, 90 State Circle, Annapolis,
34 MD 21401.

35 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of
36 this Act, this Act shall take effect October 1, 2009.