

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 196 (Senator Young, *et al.*)  
Education, Health, and Environmental Affairs

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**Public Safety - Building Codes - Balcony Inspections ("Jonathan's Law")**

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This bill requires a political subdivision to conduct an inspection of every multifamily dwelling unit with a balcony at least once every five years in order to ensure that the balcony meets the requirements of the applicable local housing code or the Minimum Livability Code. A political subdivision may authorize a third party to conduct the inspections. The bill also authorizes a political subdivision to charge a property owner a fee for each periodic balcony inspection.

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**Fiscal Summary**

**State Effect:** The bill's requirements can be absorbed within existing budgeted resources. Any additional criminal penalties assessed as a result of the bill are not anticipated to materially affect State finances.

**Local Effect:** Some local governments may experience an increase in expenditures to conduct the required inspections. Local revenues may increase as a result of any inspection fees assessed pursuant to the bill's authority. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Bill Summary:** The bill defines "multifamily dwelling" as a building containing two or more dwelling units, including an apartment house, a boarding house, a convent, a dormitory, a fraternity or sorority house, a hotel or motel, a monastery, and a vacation time-share property.

**Current Law:** The Department of Housing and Community Development (DHCD) is required to adopt a “Minimum Livability Code,” which sets baseline property standards for all residential structures located in the State except for owner-occupied single-family housing units or specified housing exempted by DHCD. The Minimum Livability Code must contain minimum standards for the safe and sanitary maintenance of residential structures and premises.

The Minimum Livability Code incorporates the 2009 International Property Maintenance Code (IPMC). IPMC sets requirements for the conditions and maintenance of property, buildings, and structures that are essential to ensure that structures are safe, sanitary, and fit for human occupation and use. IPMC requires that every exterior balcony be structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. Every interior balcony must be maintained in sound condition and good repair. Additionally, every portion of a balcony which is more than 30 inches above the floor or grade must have guards at least 30 inches above the floor of the balcony.

Each political subdivision in the State must also adopt a local housing code that sets minimum property maintenance standards for housing within the subdivision. DHCD’s Minimum Livability Code does not apply to housing located in a political subdivision that has adopted a substantially similar local housing code. Each political subdivision is responsible for enforcing the Minimum Livability Code and may charge a property owner a fee for an inspection made to enforce the code.

A property owner may apply for a waiver of the Minimum Livability Code. A political subdivision is authorized to issue a waiver if (1) each tenant of the unit is given adequate notice in the form and manner specified by the political subdivision; (2) each tenant is given an opportunity to comment on the application in writing or in person; and (3) the waiver would not threaten the health or safety of any tenant. A political subdivision may also issue a waiver on the basis of the religious practices of a rental housing unit’s tenant. DHCD decides questions of interpretation of the Minimum Livability Code, including questions that relate to uniform enforcement by political subdivisions, and may authorize waivers or exemptions under the Minimum Livability Code.

DHCD may provide matching grants and technical assistance to political subdivisions in order to implement the Minimum Livability Code.

A property owner who willfully violates the Minimum Livability Code is guilty of a misdemeanor and, upon conviction, is subject, for each violation, to imprisonment for up to three months or a fine of up to \$500 for each day the violation exists, or both. Any such penalty is not a substitute for any other penalty authorized under federal, State, or local law.

**Background:** The bill stems from a 2008 incident in Massachusetts in which a 32-year-old man died after a railing on his apartment's balcony collapsed. His death led to the passing of a similar law in Massachusetts.

**Local Fiscal Effect:** Local expenditures increase if a political subdivision hires an additional inspector or contracts with a third party to perform the required balcony inspections. Whether a political subdivision needs to hire an inspector or contract with a third party to perform any additional inspections depends on the number of balconies in the political subdivision and any inspection process already in place. For example, the Town of La Plata, the City of Laurel, and St. Mary's County report that the bill does not materially affect local finances because inspections of rental properties already occur more frequently than once every five years; in these jurisdictions, it is assumed that the bill's requirements would be handled as part of the existing inspection process.

Although conducting balcony inspections may increase local expenditures, a political subdivision may offset its additional costs by charging a property owner an inspection fee as authorized by the bill. Baltimore County advises that it will contract with a third party to conduct inspections and collect a fee from property owners to offset the contract costs. The county currently conducts inspections on an at-need basis rather than periodically. Montgomery County reports that while it already conducts periodic inspections of apartment complexes, the bill's changes will result in the need to conduct inspections of hotels and motels; the county expects to charge an inspection fee to cover any increase in costs, however.

Although a political subdivision is authorized to charge an inspection fee, some local jurisdictions may choose not to implement such a fee. For example, Harford County notes that any inspection fee proposal would face considerable resistance from the business community. The county anticipates an increase of \$30,000 to \$35,000 in annual expenditures under the bill. The county advises that one particular complex in the county has approximately 500 balconies; if the county charges an inspection fee of \$50 per balcony, inspection costs total \$25,000 for that one complex alone. Thus, the county does not currently plan on charging an inspection fee despite the authority provided by the bill. Cecil County also anticipates the need to hire an inspector at a cost of approximately \$50,000 annually, but does not plan on charging an inspection fee. Thus, in some local jurisdictions, inspection costs may not be offset by fee revenue.

Any additional criminal penalties assessed as a result of the bill are not anticipated to materially affect local finances.

**Small Business Effect:** Small businesses subject to inspections incur increases in costs to pay any inspection fees established as a result of the bill. Particularly, a hotel or motel may incur a meaningful increase in expenditures to pay any inspection fees established.

However, it is assumed that any increase in costs will be passed on to customers in the form of higher prices.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Cecil, Carroll, Harford, Montgomery, and St. Mary's counties; Town of La Plata; City of Laurel; Town of Sykesville; Department of Human Resources; Maryland State Department of Education; Department of Housing and Community Development; Department of Health and Mental Hygiene; Department of Juvenile Services; Morgan State University; *The Herald Mail*; Department of Legislative Services

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