

Chapter 410

(House Bill 1279)

AN ACT concerning

Statewide Building Codes – Maryland Accessibility Code – Enforcement

FOR the purpose of authorizing an ~~aggrieved individual~~ occupant, a dependant of an occupant, or a prospective tenant who otherwise meets the requirements for tenancy to commence a civil action to obtain relief for a violation of the Maryland Accessibility Code ~~by a person that operates~~ with regard to a building of four or more dwelling units under certain circumstances; requiring an occupant, a dependant of an occupant, or a prospective tenant who otherwise meets the requirements for tenancy to provide a certain written notice to a property manager, landlord, or rental agent before filing a complaint under this Act; authorizing a court that finds that a violation of the Maryland Accessibility Code has occurred to grant certain relief and award certain costs and damages under certain circumstances; correcting an obsolete reference; defining a certain term; and generally relating to private enforcement actions ~~brought by aggrieved individuals~~ under the Maryland Accessibility Code.

BY repealing and reenacting, with amendments,
Article – Public Safety
Section 12–202
Annotated Code of Maryland
(2011 Replacement Volume and 2012 Supplement)

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

Article – Public Safety

12–202.

(a) **(1)** In this section, *THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.*

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

(3) *“HISTORIC PROPERTY” MEANS A QUALIFIED HISTORIC BUILDING OR FACILITY THAT IS:*

(I) LISTED OR ELIGIBLE FOR LISTING IN THE NATIONAL REGISTER OF HISTORIC PLACES; OR

(II) DESIGNATED AS HISTORIC UNDER STATE OR LOCAL LAW.

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

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

(i) the ~~Governor's Committee on Employment of People with~~ Maryland Department of Disabilities;

(ii) the Maryland Rehabilitation Association; and

(iii) the Maryland Society of Architects.

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

(d) The Department:

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

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

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

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

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

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

(g) The Attorney General may prosecute civil cases that arise under this section that are referred to the Attorney General by the Department.

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

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

(i) (1) A person may not willfully violate the Maryland Accessibility Code.

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

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

(J) (1) THIS SUBSECTION DOES NOT APPLY TO AN AGGRIEVED INDIVIDUAL WHO HAS AN EXISTING PRIVATE RIGHT OF ACTION AGAINST A HOUSING AUTHORITY TO ENFORCE ACCESSIBILITY REQUIREMENTS UNDER:

(I) SECTION 504 OF THE FEDERAL REHABILITATION ACT OF 1973; OR

(II) THE FEDERAL AMERICANS WITH DISABILITIES ACT OF 1990.

(2) ~~AN AGGRIEVED INDIVIDUAL~~ SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN OCCUPANT, A DEPENDANT OF AN OCCUPANT, OR A PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR TENANCY MAY COMMENCE A CIVIL ACTION IN THE DISTRICT COURT OR CIRCUIT COURT TO OBTAIN RELIEF FOR A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE BY A PERSON THAT OPERATES WITH REGARD TO A BUILDING OF FOUR OR MORE DWELLING UNITS THAT:

(I) IS SUBJECT TO THE MARYLAND ACCESSIBILITY CODE;
BUT

(II) IS NOT A HISTORIC PROPERTY.

(3) AT LEAST 30 DAYS BEFORE FILING A COMPLAINT UNDER THIS SUBSECTION, AN OCCUPANT, A DEPENDANT OF AN OCCUPANT, OR A

PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR TENANCY SHALL PROVIDE WRITTEN NOTICE TO THE PROPERTY MANAGER, LANDLORD, OR RENTAL AGENT THAT:

(I) STATES THAT THE OCCUPANT, DEPENDANT OF AN OCCUPANT, OR PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR TENANCY NEEDS ACCESSIBILITY;

(II) IDENTIFIES THE LOCATION OF THE MULTIFAMILY BUILDING THAT IS ALLEGED TO BE NONCOMPLIANT; AND

(III) STATES THAT THE OWNER OF THE MULTIFAMILY BUILDING HAS 30 DAYS FROM THE DATE OF THE NOTICE TO MAKE ARRANGEMENTS TO BRING THE MULTIFAMILY BUILDING INTO COMPLIANCE.

~~(2)~~ (4) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, IF THE COURT FINDS THAT A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE HAS OCCURRED, THE COURT MAY:

(I) GRANT RELIEF AS THE COURT CONSIDERS APPROPRIATE, INCLUDING INJUNCTIVE RELIEF;

(II) AWARD THE PREVAILING PARTY REASONABLE ATTORNEY'S FEES AND COSTS; AND

(III) AWARD THE PREVAILING ~~PLAINTIFF~~ PARTY ACTUAL ~~AND PUNITIVE~~ DAMAGES.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved by the Governor, May 2, 2013.