

HOUSE BILL 1279

E4

(3lr2439)

ENROLLED BILL

— *Environmental Matters/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Niemann, Bobo, Carr, Carter, Frush, Glenn, and Hubbard**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Statewide Building Codes – Maryland Accessibility Code – Enforcement**

3 FOR the purpose of authorizing an ~~aggrieved individual~~ occupant, a dependant of an
4 occupant, or a prospective tenant who otherwise meets the requirements for
5 tenancy to commence a civil action to obtain relief for a violation of the
6 Maryland Accessibility Code ~~by a person that operates~~ with regard to a building
7 of four or more dwelling units under certain circumstances; requiring an
8 occupant, a dependant of an occupant, or a prospective tenant who otherwise
9 meets the requirements for tenancy to provide a certain written notice to a
10 property manager, landlord, or rental agent before filing a complaint under this
11 Act; authorizing a court that finds that a violation of the Maryland Accessibility
12 Code has occurred to grant certain relief and award certain costs and damages
13 under certain circumstances; correcting an obsolete reference; *defining a certain*

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 ~~term;~~ and generally relating to private enforcement actions ~~brought by~~
 2 ~~aggrieved individuals~~ under the Maryland Accessibility Code.

3 BY repealing and reenacting, with amendments,
 4 Article – Public Safety
 5 Section 12–202
 6 Annotated Code of Maryland
 7 (2011 Replacement Volume and 2012 Supplement)

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

10 **Article – Public Safety**

11 12–202.

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

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

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

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

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

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

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

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

28 (ii) the Maryland Rehabilitation Association; and

29 (iii) the Maryland Society of Architects.

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

1 (d) The Department:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **(II) THE FEDERAL AMERICANS WITH DISABILITIES ACT OF**
7 **1990.**

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

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

17 **(II) IS NOT A HISTORIC PROPERTY.**

18 **(3) AT LEAST 30 DAYS BEFORE FILING A COMPLAINT UNDER THIS**
19 **SUBSECTION, AN OCCUPANT, A DEPENDANT OF AN OCCUPANT, OR A**
20 **PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR**
21 **TENANCY SHALL PROVIDE WRITTEN NOTICE TO THE PROPERTY MANAGER,**
22 **LANDLORD, OR RENTAL AGENT THAT:**

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

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

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

31 **(~~2~~) (4) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, IF**
32 **THE COURT FINDS THAT A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE**
33 **HAS OCCURRED, THE COURT MAY:**

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

3 **(II) AWARD THE PREVAILING PARTY REASONABLE**
4 **ATTORNEY’S FEES AND COSTS; AND**

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.