

SENATE BILL 902

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3lr3014
CF HB 1279

By: **Senators Muse and Zirkin**

Introduced and read first time: February 11, 2013

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 21, 2013

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 28, 2013

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

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 12–202
19 Annotated Code of Maryland
20 (2011 Replacement Volume and 2012 Supplement)

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

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.



1 **Article – Public Safety**

2 12–202.

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

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

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

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

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

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

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

17 (i) ~~the Governor’s Committee on Employment of People with~~
18 MARYLAND DEPARTMENT OF Disabilities;

19 (ii) the Maryland Rehabilitation Association; and

20 (iii) the Maryland Society of Architects.

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

23 (d) The Department:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (II) THE FEDERAL AMERICANS WITH DISABILITIES ACT OF
31 1990.

32 (2) ~~AN AGGRIEVED INDIVIDUAL~~ SUBJECT TO PARAGRAPH (3) OF
33 THIS SUBSECTION, AN OCCUPANT, A DEPENDANT OF AN OCCUPANT, OR A

1 PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR
 2 TENANCY MAY COMMENCE A CIVIL ACTION IN THE DISTRICT COURT OR CIRCUIT
 3 COURT TO OBTAIN RELIEF FOR A VIOLATION OF THE MARYLAND ACCESSIBILITY
 4 CODE ~~BY A PERSON THAT OPERATES~~ WITH REGARD TO A BUILDING OF FOUR OR
 5 MORE DWELLING UNITS THAT:

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

8 (II) IS NOT A HISTORIC PROPERTY.

9 (3) AT LEAST 30 DAYS BEFORE FILING A COMPLAINT UNDER THIS
 10 SUBSECTION, AN OCCUPANT, A DEPENDANT OF AN OCCUPANT, OR A
 11 PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR
 12 TENANCY SHALL PROVIDE WRITTEN NOTICE TO THE PROPERTY MANAGER,
 13 LANDLORD, OR RENTAL AGENT THAT:

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

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

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

22 ~~(2)~~ (4) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, IF
 23 THE COURT FINDS THAT A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE
 24 HAS OCCURRED, THE COURT MAY:

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

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

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

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