

HOUSE BILL 947

E4
HB 469/13 – ENV

4lr2013

By: **Delegate Stein**

Introduced and read first time: February 5, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Building Codes – Balcony Inspections**
3 **(Jonathan’s Law)**

4 FOR the purpose of requiring a political subdivision to require periodic inspections of
5 certain multifamily dwellings with balconies to ensure that each balcony meets
6 certain requirements; authorizing a political subdivision to conduct the
7 inspections, authorize a third party to conduct the inspections, or require a
8 certain professional inspector employed by the owner of a multifamily dwelling
9 to conduct and certify the inspections in a certain manner; requiring a political
10 subdivision to provide a certain notice to the owner of a multifamily dwelling;
11 authorizing a political subdivision to charge a fee for a periodic inspection;
12 defining certain terms; requiring a political subdivision to require a certain
13 inspection under this Act of certain multifamily dwellings on or before a certain
14 date; providing that this Act does not require a political subdivision to inspect a
15 certain balcony more than once within a certain period of time; providing for the
16 application of this Act; and generally relating to inspections of balconies in
17 multifamily dwellings.

18 BY repealing and reenacting, with amendments,
19 Article – Public Safety
20 Section 12–203
21 Annotated Code of Maryland
22 (2011 Replacement Volume and 2013 Supplement)

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

25 **Article – Public Safety**

26 12–203.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (2) "Department" means the Department of Housing and Community
4 Development.

5 (3) (I) "MULTIFAMILY DWELLING" MEANS A PROPERTY
6 CONTAINING TWO OR MORE DWELLING UNITS, INCLUDING:

7 1. AN APARTMENT HOUSE;

8 2. A BOARDING HOUSE;

9 3. A CONVENT;

10 4. A DORMITORY;

11 5. A FRATERNITY OR SORORITY HOUSE;

12 6. A HOTEL OR MOTEL;

13 7. A MONASTERY; AND

14 8. A VACATION TIME-SHARE PROPERTY.

15 (II) "MULTIFAMILY DWELLING" DOES NOT INCLUDE:

16 1. A CONDOMINIUM, AS DEFINED IN § 11-101 OF THE
17 REAL PROPERTY ARTICLE; OR

18 2. A COOPERATIVE HOUSING CORPORATION, AS
19 DEFINED IN § 5-6B-01 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE.

20 (4) "PROFESSIONAL INSPECTOR" MEANS:

21 (I) A PROFESSIONAL ENGINEER LICENSED UNDER TITLE 14
22 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND
23 EXPERIENCED IN THE PRACTICE OF STRUCTURAL ENGINEERING;

24 (II) AN ARCHITECT LICENSED UNDER TITLE 3 OF THE
25 BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND KNOWLEDGEABLE
26 IN THE DESIGN, CONSTRUCTION, AND INSPECTION OF BUILDINGS; OR

27 (III) FOR PURPOSES OF THE INSPECTION OF A MULTIFAMILY
28 DWELLING CONTAINING MORE THAN 10 DWELLING UNITS, A QUALIFIED PERSON

1 WITH AT LEAST 5 YEARS OF EXPERIENCE IN MULTIFAMILY DWELLING
2 OPERATIONS, UPKEEP, AND MAINTENANCE.

3 (b) Each political subdivision shall adopt by regulation a local housing code
4 that sets minimum property maintenance standards for housing in the subdivision.

5 (c) The Department shall adopt by regulation a Minimum Livability Code.

6 (d) (1) Except as provided in paragraph (2) of this subsection, the
7 Minimum Livability Code applies to residential structures used for human habitation.

8 (2) The Minimum Livability Code does not apply to:

9 (i) an owner-occupied housing unit;

10 (ii) any housing in a political subdivision that has adopted a
11 local housing code that substantially conforms to the Minimum Livability Code; or

12 (iii) any housing exempted by the Department.

13 (e) The Minimum Livability Code shall:

14 (1) set minimum property standards for housing in the State;

15 (2) allow for exceptions and variations between political subdivisions:

16 (i) to reflect geographic differences; or

17 (ii) if the Department determines that unique local conditions
18 justify exceptions or variations recommended by political subdivisions; and

19 (3) include minimum standards for:

20 (i) basic equipment and facilities used for light, ventilation,
21 heat, and sanitation; and

22 (ii) safe and sanitary maintenance of residential structures and
23 premises.

24 (f) (1) The political subdivision in which the housing is located shall
25 enforce the Minimum Livability Code.

26 (2) Unless alternative housing is provided, an individual may not be
27 displaced by enforcement of the Minimum Livability Code.

28 **(3) (I) A POLITICAL SUBDIVISION SHALL REQUIRE AN**
29 **INSPECTION OF EACH MULTIFAMILY DWELLING IN THE POLITICAL SUBDIVISION**

1 IN WHICH A UNIT IN THE MULTIFAMILY DWELLING HAS A BALCONY AT LEAST
2 ONCE EVERY 10 YEARS, BEGINNING NO LATER THAN 10 YEARS AFTER THE
3 BALCONY IS CONSTRUCTED, TO ENSURE THAT EACH BALCONY MEETS THE
4 REQUIREMENTS OF THE APPLICABLE LOCAL HOUSING CODE OR THE MINIMUM
5 LIVABILITY CODE.

6 (II) A POLITICAL SUBDIVISION MAY:

7 1. CONDUCT INSPECTIONS REQUIRED UNDER
8 SUBPARAGRAPH (I) OF THIS PARAGRAPH;

9 2. AUTHORIZE A THIRD PARTY TO CONDUCT
10 INSPECTIONS REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ON
11 BEHALF OF THE POLITICAL SUBDIVISION; OR

12 3. REQUIRE AN INSPECTION REQUIRED UNDER
13 SUBPARAGRAPH (I) OF THIS PARAGRAPH TO BE CONDUCTED AND CERTIFIED TO
14 THE POLITICAL SUBDIVISION BY A PROFESSIONAL INSPECTOR EMPLOYED BY
15 THE OWNER OF THE MULTIFAMILY DWELLING.

16 (III) A CERTIFICATION MADE BY A PROFESSIONAL
17 INSPECTOR UNDER SUBPARAGRAPH (II)3 OF THIS PARAGRAPH SHALL:

18 1. BE MADE IN THE FORM REQUIRED BY THE
19 APPLICABLE POLITICAL SUBDIVISION; AND

20 2. INCLUDE:

21 A. A STATEMENT THAT THE BALCONY HAS BEEN
22 INSPECTED;

23 B. THE NAME OF THE OWNER OF THE MULTIFAMILY
24 DWELLING;

25 C. THE ADDRESS OF THE MULTIFAMILY DWELLING;

26 D. THE NAME OF THE INSPECTOR;

27 E. THE DATE THE MULTIFAMILY DWELLING WAS
28 INSPECTED;

29 F. THE RESULTS OF THE INSPECTION; AND

1 **G. ANY OTHER INFORMATION REQUIRED BY THE**
 2 **POLITICAL SUBDIVISION.**

3 **(IV) A POLITICAL SUBDIVISION SHALL:**

4 **1. PROVIDE NOTICE TO THE OWNER OF A**
 5 **MULTIFAMILY DWELLING AT LEAST 10 DAYS BEFORE ANY INSPECTION OF THE**
 6 **DWELLING CONDUCTED UNDER SUBPARAGRAPH(II)2 OR 3 OF THIS PARAGRAPH;**
 7 **OR**

8 **2. A. NOTIFY THE OWNER OF A MULTIFAMILY**
 9 **DWELLING OF THE NEED TO HAVE A PROFESSIONAL INSPECTOR COMPLETE AN**
 10 **INSPECTION UNDER SUBPARAGRAPH (II)3 OF THIS PARAGRAPH; AND**

11 **B. ALLOW THE OWNER OF THE MULTIFAMILY**
 12 **DWELLING A REASONABLE PERIOD OF TIME TO HAVE THE INSPECTION**
 13 **COMPLETED.**

14 **[3] (4)** A political subdivision may charge a property owner a fee
 15 for:

16 **(I)** an inspection made to enforce the Minimum Livability Code;
 17 **AND**

18 **(II) A PERIODIC INSPECTION MADE UNDER PARAGRAPH (3)**
 19 **OF THIS SUBSECTION.**

20 (g) (1) On application of the property owner, a political subdivision may
 21 waive the applicability of the Minimum Livability Code to a unit of rental housing if:

22 (i) each tenant of the unit is given adequate notice in the form
 23 and manner specified by the political subdivision;

24 (ii) each tenant is given an opportunity to comment on the
 25 application in writing or in person; and

26 (iii) the waiver would not threaten the health or safety of any
 27 tenant.

28 (2) A political subdivision may waive applicability of the Minimum
 29 Livability Code if the waiver is granted on the basis of the religious practices of the
 30 tenant of a unit of rental housing.

31 (h) The Department:

1 (1) shall decide questions of interpretation of the Minimum Livability
2 Code, including questions that relate to uniform enforcement by political subdivisions;
3 and

4 (2) may authorize waivers or exemptions under the Minimum
5 Livability Code.

6 (i) (1) The Department may provide matching grants and technical
7 assistance to political subdivisions to implement the Minimum Livability Code.

8 (2) The matching grants shall be allocated using a formula developed
9 by the Department to take into account population and other relevant factors.

10 (3) The Department may waive the requirement of a match if
11 adequate local money is not available.

12 (j) (1) A property owner may not willfully violate the Minimum Livability
13 Code.

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

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

19 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,
20 2015, a political subdivision shall require an inspection, in accordance with the
21 requirements of this Act, of each multifamily dwelling in the political subdivision in
22 which a unit in the multifamily dwelling has a balcony that is at least 10 years old.

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act does not require
24 a political subdivision to inspect a balcony inspected before the effective date of this
25 Act more than once within a 10-year period.

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act does not require
27 a political subdivision that conducts balcony inspections before the effective date of
28 this Act to alter its method of conducting inspections, but any change to balcony
29 inspection methods made on or after October 1, 2014, must comply with this Act.

30 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2014.