

HOUSE BILL 947

E4
HB 469/13 – ENV

4lr2013

By: **Delegate Stein**
Introduced and read first time: February 5, 2014
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 10, 2014

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of requiring ~~a political subdivision~~ certain political subdivisions to
5 require periodic inspections of certain multifamily dwellings with ~~balconies~~
6 certain balcony railings to ensure that each balcony railing meets certain
7 requirements; authorizing ~~a political subdivision~~ certain political subdivisions
8 to conduct the inspections, authorize a third party to conduct the inspections, or
9 require a certain professional inspector employed by the owner of a multifamily
10 dwelling to conduct and certify the inspections in a certain manner; requiring ~~a~~
11 ~~political subdivision~~ certain political subdivisions to provide a certain notice to
12 the owner of a multifamily dwelling; authorizing a political subdivision that
13 otherwise inspects multifamily dwelling units according to a certain schedule to
14 include the periodic inspections required under this Act as part of that
15 inspection; prohibiting a unit from being inspected under certain circumstances;
16 prohibiting Baltimore City from issuing or renewing a certain multiple-family
17 dwelling license unless the applicant demonstrates that a professional inspector
18 has completed a certain inspection; requiring Baltimore City to notify the holder
19 of a multiple-family dwelling license of a certain inspection requirement at a
20 certain time; authorizing a political subdivision to charge a fee for a periodic
21 inspection; defining certain terms; requiring a political subdivision to require a
22 certain inspection under this Act of certain multifamily or multiple-family
23 dwellings on or before a certain date; providing that this Act does not require a
24 political subdivision to inspect a certain balcony railing more than once within a
25 certain period of time, with a certain exception; providing for the application of

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 this Act; and generally relating to inspections of ~~balconies~~ certain balcony
 2 railings in multifamily dwellings.

3 BY repealing and reenacting, with amendments,
 4 Article – Public Safety
 5 Section 12–203
 6 Annotated Code of Maryland
 7 (2011 Replacement Volume and 2013 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 12–203.

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) (I) “MULTIFAMILY DWELLING” MEANS A PROPERTY
 17 CONTAINING TWO OR MORE DWELLING UNITS, INCLUDING:

- 18 1. AN APARTMENT HOUSE;
- 19 2. A BOARDING HOUSE;
- 20 3. A CONVENT;
- 21 4. A DORMITORY;
- 22 5. A FRATERNITY OR SORORITY HOUSE;
- 23 6. A HOTEL OR MOTEL;
- 24 7. A MONASTERY; AND
- 25 8. A VACATION TIME–SHARE PROPERTY.

26 (II) “MULTIFAMILY DWELLING” DOES NOT INCLUDE:

- 27 1. A CONDOMINIUM, AS DEFINED IN § 11–101 OF THE
 28 REAL PROPERTY ARTICLE; OR

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

3 **(4) “PROFESSIONAL INSPECTOR” MEANS:**

4 **(I) A PROFESSIONAL ENGINEER LICENSED UNDER TITLE 14**
5 **OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND**
6 **EXPERIENCED IN THE PRACTICE OF STRUCTURAL ENGINEERING;**

7 **(II) AN ARCHITECT LICENSED UNDER TITLE 3 OF THE**
8 **BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE AND KNOWLEDGEABLE**
9 **IN THE DESIGN, CONSTRUCTION, AND INSPECTION OF BUILDINGS; OR**

10 **(III) FOR PURPOSES OF THE INSPECTION OF A MULTIFAMILY**
11 **DWELLING CONTAINING MORE THAN 10 DWELLING UNITS, A QUALIFIED PERSON**
12 **WITH AT LEAST 5 YEARS OF EXPERIENCE IN MULTIFAMILY DWELLING**
13 **OPERATIONS, UPKEEP, AND MAINTENANCE.**

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

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

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

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

20 (i) an owner-occupied housing unit;

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

23 (iii) any housing exempted by the Department.

24 (e) The Minimum Livability Code shall:

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

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

27 (i) to reflect geographic differences; or

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

1 (3) include minimum standards for:

2 (i) basic equipment and facilities used for light, ventilation,
3 heat, and sanitation; and

4 (ii) safe and sanitary maintenance of residential structures and
5 premises.

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

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

10 (3) (I) THIS PARAGRAPH DOES NOT APPLY IN BALTIMORE
11 CITY.

12 (II) A POLITICAL SUBDIVISION SHALL REQUIRE AN
13 INSPECTION OF AT LEAST 10% OF THE UNITS IN EACH MULTIFAMILY DWELLING
14 IN THE POLITICAL SUBDIVISION IN WHICH A UNIT IN THE MULTIFAMILY
15 DWELLING HAS A BALCONY RAILINGS THAT ARE PRIMARILY CONSTRUCTED OF
16 WOOD AT LEAST ONCE EVERY 10 YEARS, BEGINNING NO LATER THAN 10 YEARS
17 AFTER THE BALCONY IS CONSTRUCTED, TO ENSURE THAT EACH BALCONY
18 MEETS THE BALCONY RAILINGS MEET THE REQUIREMENTS OF THE APPLICABLE
19 LOCAL HOUSING CODE OR THE MINIMUM LIVABILITY CODE.

20 ~~(II)~~ (III) A POLITICAL SUBDIVISION MAY:

21 1. CONDUCT INSPECTIONS REQUIRED UNDER
22 SUBPARAGRAPH ~~(I)~~ (II) OF THIS PARAGRAPH;

23 2. AUTHORIZE A THIRD PARTY TO CONDUCT
24 INSPECTIONS REQUIRED UNDER SUBPARAGRAPH ~~(I)~~ (II) OF THIS PARAGRAPH
25 ON BEHALF OF THE POLITICAL SUBDIVISION; OR

26 3. REQUIRE AN INSPECTION REQUIRED UNDER
27 SUBPARAGRAPH ~~(I)~~ (II) OF THIS PARAGRAPH TO BE CONDUCTED AND
28 CERTIFIED TO THE POLITICAL SUBDIVISION BY A PROFESSIONAL INSPECTOR
29 EMPLOYED BY THE OWNER OF THE MULTIFAMILY DWELLING.

30 ~~(III)~~ (IV) A CERTIFICATION MADE BY A PROFESSIONAL
31 INSPECTOR UNDER ~~SUBPARAGRAPH (I)~~ SUBPARAGRAPH (III) OF THIS
32 PARAGRAPH SHALL:

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

3 2. INCLUDE:

4 A. A STATEMENT THAT THE BALCONY ~~HAS~~ RAILINGS
5 HAVE BEEN INSPECTED;

6 B. THE NAME OF THE OWNER OF THE MULTIFAMILY
7 DWELLING;

8 C. THE ADDRESS OF THE MULTIFAMILY DWELLING;

9 D. THE NAME OF THE INSPECTOR;

10 E. THE DATE THE MULTIFAMILY DWELLING WAS
11 INSPECTED;

12 F. THE RESULTS OF THE INSPECTION; AND

13 G. ANY OTHER INFORMATION REQUIRED BY THE
14 POLITICAL SUBDIVISION.

15 ~~(IV)~~ (V) A POLITICAL SUBDIVISION SHALL:

16 1. PROVIDE NOTICE TO THE OWNER OF A
17 MULTIFAMILY DWELLING AT LEAST 10 DAYS BEFORE ANY INSPECTION OF THE
18 DWELLING CONDUCTED UNDER ~~SUBPARAGRAPH (II)2 OR 3~~ SUBPARAGRAPH
19 (III)1 OR 2 OF THIS PARAGRAPH; OR

20 2. A. NOTIFY THE OWNER OF A MULTIFAMILY
21 DWELLING OF THE NEED TO HAVE A PROFESSIONAL INSPECTOR COMPLETE AN
22 INSPECTION UNDER ~~SUBPARAGRAPH (II)3~~ SUBPARAGRAPH (III)3 OF THIS
23 PARAGRAPH; AND

24 B. ALLOW THE OWNER OF THE MULTIFAMILY
25 DWELLING A REASONABLE PERIOD OF TIME TO HAVE THE INSPECTION
26 COMPLETED.

27 (VI) A POLITICAL SUBDIVISION THAT OTHERWISE INSPECTS
28 MULTIFAMILY DWELLING UNITS AT LEAST ONCE EVERY 10 YEARS MAY INCLUDE
29 THE INSPECTION REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH
30 AS PART OF THAT INSPECTION.

1 **(VII) A UNIT MAY NOT BE INSPECTED UNDER THIS**
 2 **PARAGRAPH IF THE TENANT OR LAWFUL OCCUPANT LEASING THE UNIT DENIES**
 3 **THE INSPECTOR ACCESS TO THE UNIT.**

4 **(4) (I) IN THIS PARAGRAPH, “MULTIPLE-FAMILY DWELLING”**
 5 **HAS THE MEANING STATED IN ARTICLE 13, § 5-1 OF THE BALTIMORE CITY**
 6 **CODE.**

7 **(II) THIS PARAGRAPH APPLIES ONLY IN BALTIMORE CITY.**

8 **(III) BALTIMORE CITY MAY NOT ISSUE OR RENEW A**
 9 **MULTIPLE-FAMILY DWELLING LICENSE UNLESS THE APPLICANT**
 10 **DEMONSTRATES THAT A PROFESSIONAL INSPECTOR HAS COMPLETED AN**
 11 **INSPECTION OF THE MULTIPLE-FAMILY DWELLING TO ENSURE THAT EACH**
 12 **BALCONY RAILING IN THE MULTIPLE-FAMILY DWELLING MEETS THE**
 13 **REQUIREMENTS OF THE BUILDING, FIRE, AND RELATED CODES OF BALTIMORE**
 14 **CITY.**

15 **(IV) BEGINNING IN OCTOBER 2015, AND EVERY 5 YEARS**
 16 **THEREAFTER, AT THE TIME THAT BALTIMORE CITY SENDS A RENEWAL NOTICE**
 17 **TO A HOLDER OF A MULTIPLE-FAMILY DWELLING LICENSE, BALTIMORE CITY**
 18 **SHALL NOTIFY THE LICENSE HOLDER OF THE INSPECTION REQUIREMENT**
 19 **UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH.**

20 **[(3)] ~~(4)~~ (5)** A political subdivision may charge a property owner a fee
 21 for:

22 **(I)** an inspection made to enforce the Minimum Livability Code;
 23 **AND**

24 **(II) A PERIODIC INSPECTION MADE UNDER PARAGRAPH (3)**
 25 **OR (4) OF THIS SUBSECTION.**

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

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

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

32 **(iii)** the waiver would not threaten the health or safety of any
 33 tenant.

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

4 (h) The Department:

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

8 (2) may authorize waivers or exemptions under the Minimum
9 Livability Code.

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

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

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

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

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

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1,
24 2015, a political subdivision shall require an inspection, in accordance with the
25 requirements of this Act, of each multifamily or multiple-family dwelling in the
26 political subdivision in which a unit in the multifamily or multiple-family dwelling
27 has a balcony railing that is at least 10 years old.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act does not require
29 a political subdivision, other than Baltimore City, to inspect a balcony railing
30 inspected before the effective date of this Act more than once within a 10-year period.

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.