

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 970

(Senator Smith)

Education, Energy, and the Environment

Rules and Executive Nominations

Fire Protection and Prevention - Sprinkler Systems - Requirements (Melanie Diaz Sprinklers Save Lives Act)

This bill requires, beginning January 1, 2033, each high-rise building to be protected by a complete automatic sprinkler system, as specified. Beginning July 1, 2023, the owner of a high-rise building that is not protected by a complete automatic sprinkler system must include in any lease agreement conspicuous notice with specified information regarding the absence of such a system. The Department of Housing and Community Development (DHCD), in consultation with specified State entities, must identify funding sources to offset the costs to owners of high-rise buildings. DHCD must also provide funding priority to specified high-rise buildings. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: As State-owned residential high-rise buildings must already comply with the bill's requirements, the bill is not anticipated to materially affect State operations or finances, assuming the bill only applies to *residential* high-rise buildings; however, pay-as-you-go (PAYGO) general fund and/or bond expenditures may increase (potentially significantly) if the bill is interpreted to apply to *all* high-rise buildings, as discussed below. Revenues are not affected.

Local Effect: Consistent with the State effect discussed above, locally owned residential high-rise buildings must already comply with the bill's requirements, but local expenditures may increase (potentially significantly) if the bill is interpreted to apply to *all* high-rise buildings. Local revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Beginning January 1, 2033, each high-rise building, regardless of date of construction, must be protected by a complete automatic sprinkler system installed in accordance with accepted engineering practices as approved by the authority with jurisdiction. However, this requirement does not apply to a high-rise building in which all units have exterior exit access consistent with existing building codes.

Beginning July 1, 2023, and continuing until a high-rise building is protected by a complete automatic sprinkler system, the owner of a high-rise building that is not protected must include in any lease agreement a conspicuous notice indicating (1) that the building is not currently protected by a complete automatic sprinkler system and (2) that the building is required to be protected by a complete automatic sprinkler system by January 1, 2033. The notice must be initialed by the tenant.

DHCD, in coordination with the State Fire Marshal and the Maryland Department of Emergency Management (MDEM), must identify funding sources that may be available to the owner of a high-rise building to aid the owner in meeting the bill's requirements regarding the installation of complete automatic sprinkler systems. DHCD must provide funding priority to high-rise buildings that plan to be in compliance with those requirements by 2028.

Current Law:

High-rise Building Safety in Case of Fire – Automatic Sprinkler System Required

“High-rise building” means a building for human occupancy that is four or more stories above grade level, or over 45 feet in height. “High-rise building” does not include a structure or building used exclusively for open air parking, or a building used exclusively for agricultural purposes.

Each high-rise building constructed after July 1, 1974, must be protected by a complete automatic sprinkler system installed in accordance with accepted engineering practices as approved by the authority with jurisdiction. However, the requirement does not apply to a building that is less than 75 feet in height above grade level if (1) the local fire department has at least one approved first line piece of aerial equipment that is capable of reaching the roof of the building and (2) accessibility to the building is provided on two sides of the perimeter of the building, as specified. Height above grade level must be determined by using the lowest elevation of the public way as a reference datum.

Maryland State Fire Code

The State Fire Marshal within the Department of State Police (DSP) must enforce all laws of the State relating to, among other things, the prevention of fire and the installation and maintenance of all kinds of equipment intended to control, detect, or extinguish fire. The State Fire Marshal must also enforce regulations adopted by the State Fire Prevention Commission (SFPC).

SFPC must adopt comprehensive regulations as a State Fire Prevention Code. SFPC has adopted by reference, subject to some exceptions, National Fire Prevention Association (NFPA) 1 Fire Code (2018 Edition), the NFPA 101 Life Safety Code (2018 Edition), and some requirements of the International Building Code as the State Fire Prevention Code. The State Fire Prevention Code has the force and effect of law in the political subdivisions of the State, and enforcement is the responsibility of the State Fire Marshal, a legally designated fire official of a county or municipality of the State, or other persons legally appointed by the State Fire Marshal (as specified under the Public Safety Article).

The 2018 Editions of the NFPA 1 Fire Code and NFPA 101 Life Safety Code do not require the installation of automatic sprinkler systems in existing high-rise apartment buildings. However, the 2021 Editions include provisions requiring the installation of automatic sprinkler systems in all existing high-rise apartment buildings by January 1, 2033 (unless the building meets specified egress requirements).

According to the State Fire Marshal, SFPC determined in April 2018 that existing residential high-rise buildings that are not protected by an automatic sprinkler system are a distinct hazard. The State Fire Marshal subsequently issued a statewide mandate to those affected jurisdictions that all existing high-rise buildings be brought into compliance with the State Fire Prevention Code, as adopted and amended, by January 1, 2033.

State/Local Fiscal Effect:

Effect on the State/Local Governments as Owners of Affected Buildings

The State Fire Marshal and SFPC previously determined in April 2018 that all existing residential high-rise buildings be brought into compliance with the State Fire Prevention Code, which includes the retrofitting of complete automatic sprinkler systems, by January 1, 2033. Accordingly, assuming the bill applies only to *residential* high-rise buildings, the bill's provisions requiring the installation of complete automatic sprinkler systems have no effect on State and local governments.

However, it is unclear if the bill applies only to *residential* high-rise buildings or to *all* high-rise buildings (including office buildings). The deadline the bill establishes for

high-rise buildings to install complete automatic sprinkler systems is the same date specified under the 2021 Edition NFPA provisions (January 1, 2033), and those provisions specify that only *residential* high-rise buildings must meet the specified sprinkler requirement. However, the bill does not alter the definition of “high-rise building” established under current law, which does not distinguish between residential and nonresidential high-rise buildings. To the extent the bill is interpreted to apply to *all* high-rise buildings, State expenditures (PAYGO and/or bond) and local government expenditures increase by an indeterminate but potentially significant amount to meet the bill’s requirements.

Implementation and Enforcement

DSP advises that the State Fire Marshal can handle the bill’s changes with existing resources. It is also anticipated that local governments can inspect high-rise buildings and enforce the bill’s requirements with existing resources.

DHCD can identify funding sources that may be available to the owner of a high-rise building to help pay for the installation of a complete automatic sprinkler system using existing budgeted resources; the State Fire Marshal and MDEM can coordinate with DHCD using existing budgeted resources.

Although the bill’s provision requiring DHCD to provide funding priority to high-rise buildings that plan to be in compliance with the bill’s requirement to install complete automatic sprinkler systems by 2028 may have an operational effect, it does not alter the amount of funding available for eligible projects and, therefore, does not have a fiscal effect.

Small Business Effect: Similar to the effect on State and local governments, it is unclear if the bill applies to all high-rise buildings or only to residential high-rise buildings. To the extent the bill applies to all high-rise buildings, any small businesses that own high-rise buildings experience costs to the extent they must retrofit and install complete automatic sprinkler systems in affected buildings. If the bill applies only to residential high-rise buildings, the bill’s requirements do not affect owners of such buildings that are small businesses as they must already meet those requirements even in the absence of the bill.

Owners of high-rise buildings that do not already have complete automatic sprinkler systems benefit from funds identified by DHCD, the State Fire Marshal, and MDEM to offset the costs of installing those systems.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1292 (Delegate Charkoudian, *et al.*) - Rules and Executive Nominations.

Information Source(s): Montgomery and Prince George's counties; Maryland Association of Counties; Maryland Department of Emergency Management; City of Annapolis; Maryland Municipal League; Office of the Attorney General (Consumer Protection Division); Department of Housing and Community Development; Department of State Police; Department of General Services; Department of Public Safety and Correctional Services; Maryland Department of Health; National Fire Protection Association; Department of Legislative Services

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