



**Bill No:** House bill 823 – Fire Protection and Prevention – Residential Rental Property – Requirements (Melanie Nicholle Diaz Fire Safety Act)

**Committee:** Environment and Transportation

**Date:** February 20, 2024

**Position:** Favorable with Amendments

The Apartment and Office Building Association of Metropolitan Washington (AOBA). AOBA represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George’s counties.

House Bill 823 establishes new lease notice provisions, signage requirements, and fire safety instructions for tenants that live in multifamily high-rise buildings that are not equipped with fire sprinklers. The bill ensures that visual notification devices for tenants that are deaf or hard of hearing are provided and paid for by the housing provider without the cost being passed on to the tenant. It establishes a workgroup to study best practices and make recommendations for the installation of fire alarms and automatic fire sprinklers in multifamily high-rises. In making its recommendations, the workgroup will consider the cost of installing fire sprinklers and the feasibility of alternative approved protection systems. Lastly, the bill requires new smoke detection requirements in accordance with National Fire Protection Association (NFPA) standards.

AOBA supports efforts to make multifamily high-rise buildings safer, including the lease notice, increased signage, fire safety instructions, and visual notification device provisions of HB 823. AOBA also supports establishing a workgroup to study this issue. Below is a brief history of the fire sprinkler retrofit mandate and the outcome of a previous workgroup on this issue. It is with this history in mind that AOBA looks forward to exploring potential alternatives to sprinkler retrofitting.

AOBA does not, however, support the smoke detection requirements in this bill. NFPA standards are complex and extremely difficult, if not impossible, to adapt to older buildings. For these buildings, complying with the smoke detection requirements in NFPA 72 will trigger new fire alarm system requirements. Required upgrades will include addressing the audibility of the smoke alarm and interconnecting the smoke detectors with a fire alarm control panel. These

audibility requirements extend beyond the corridors of the building and would include a sophisticated Voice Evacuation System within each bedroom and the common area of each apartment. These types of upgrades could easily exceed \$1 million dollars in a typical multifamily high-rise. For reference, the cost estimate to sprinker a 107-unit high-rise in Silver Spring was estimated at \$1,060,250. This estimate did not include the cost of hazardous material abatement, tenant relocation, loss of rental income, or upgraded water capacity. Nevertheless, this project would require a rent increase of nearly \$10,000 per unit if amortized over a 10-year period.

These are costs that most multifamily building owners and their tenants simply cannot afford. According to corporate mortgage-backed security data, multifamily buildings in Maryland are operating on thin margins of just 5-percent. These margins are increasingly being squeezed by legislative mandates like this one, Building Energy Performance Standards, and ever-increasing operating expenses. Therefore, the only way for building owners to recoup these costs is to pass them on to the tenant. Many of the un-sprinklered high-rises in the state are naturally occurring affordable housing that will cease to be affordable if the smoke detection mandate moves forward. In some cases, the level of rent increases needed to pay for these improvements may simply not be recoverable by the market.

**For these reasons, AOBA urges the Committee to strike the smoke detection requirement from the bill and that the scope of the workgroup be expanded to study this issue instead.**

## **Background**

The State of Maryland initially addressed fire safety and sprinklers in 1974. The Maryland General Assembly passed legislation to require all high-rise buildings constructed after July 1, 1974, to be installed with a complete automatic sprinkler system. Similarly, the State Fire Code requires newly constructed residential facilities, including multifamily buildings, for which a building permit is issued on or after July 1, 1990, to have fire sprinklers. The General Assembly subsequently authorized the Maryland State Fire Prevention Commission (FPC) to make assessments regarding the fire risks posed by high-rise buildings constructed before 1974. Under current state law, the FPC must determine that these buildings are an “inimical hazard” to public safety to require that they be retrofitted with fire sprinklers. Neither the legislature nor the FPC have ever defined what constitutes an inimical hazard.

In 2017, the FPC established a task force to make recommendations to address the fire safety issue in pre-1974 high-rise buildings. The task force suggested four options but could not come together on any one recommendation. The group's four options were:

- Option 1 - Provide a complete building fire suppression system;
- Option 2 - Compliance with NFPA 101 for Existing High-rise Residential Occupancies (effectively requiring all dwelling units to have an exit directly to the exterior);
- Option 3 - Compliance with a set of parameters developed by the task force, which include provisions for: standpipes, a fire department elevator, protection of cooking equipment, smoke alarms, protection of exit access corridors, protection of vertical openings, and separation of hazards, elimination or mitigation of risks associated with a

combustible exterior finish material, maintenance of means of egress, maintenance of manual fire alarm systems, and standby power; or

- Option 4 – Compliance with the standpipe, FD elevator, cooking protection, and combustible exterior mitigation features of Option 3. Additionally, alarms would have to sound throughout the building, and in structures greater than 10 stories above grade, emergency power would be provided for at least one fire service elevator.

In 2019, the FPC declared all un-sprinklered high-rises an inimical hazard at a poorly attended meeting and without notice to stakeholders. This declaration along with the adoption of the 2019 Fire Code triggered a 12-year sprinkler retrofit requirement. Last year, based on the advice of the Attorney General, the Fire Marshal determined that the declaration of inimical hazard was unenforceable because it did not comply with the Maryland Administrative Procedures Act.

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