

HOUSE BILL 1279

E4

3lr2439
CF SB 902

By: **Delegates Niemann, Bobo, Carr, Carter, Frush, Glenn, and Hubbard**

Introduced and read first time: February 8, 2013

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 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; and generally
14 relating to private enforcement actions ~~brought by aggrieved individuals~~ under
15 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) In this section, “Department” means the Department of Housing and
4 Community Development.5 (b) (1) The Department shall adopt by regulation a State building code to
6 make buildings and facilities accessible and usable by individuals with physical
7 disabilities to the extent feasible.

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

9 (i) ~~the Governor’s Committee on Employment of People with~~
10 Maryland Department of Disabilities;

11 (ii) the Maryland Rehabilitation Association; and

12 (iii) the Maryland Society of Architects.

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

15 (d) The Department:

16 (1) shall decide questions of interpretation of the Maryland
17 Accessibility Code; and18 (2) may authorize waivers or exemptions under the Maryland
19 Accessibility Code.20 (e) In addition to any other penalty for a violation of the Maryland
21 Accessibility Code, the Department shall investigate to determine if a violation exists.22 (f) (1) If the Department determines that a violation of the Maryland
23 Accessibility Code exists, the Department may resolve any issue related to the
24 violation by mediation and conciliation.25 (2) In addition, the Department may bring an action for equitable or
26 other appropriate relief in a court in the jurisdiction in which the violation occurred,
27 including an action to enjoin the construction, renovation, or occupancy of a building
28 or facility that violates the Maryland Accessibility Code.29 (3) Notwithstanding paragraph (2) of this subsection, the Department
30 may not seek an injunction until 5 working days after the Department has sought to
31 resolve the violation through mediation and conciliation.

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

3 (h) (1) The Department shall cooperate with and provide technical
4 assistance to the Commission on Civil Rights concerning an action brought by the
5 Commission on Civil Rights to enforce § 20–705 or § 20–706 of the State Government
6 Article.

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

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

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

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

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

18 (I) SECTION 504 OF THE FEDERAL REHABILITATION ACT
19 OF 1973; OR

20 (II) THE FEDERAL AMERICANS WITH DISABILITIES ACT OF
21 1990.

22 (2) ~~AN AGGRIEVED INDIVIDUAL~~ SUBJECT TO PARAGRAPH (3) OF
23 THIS SUBSECTION, AN OCCUPANT, A DEPENDANT OF AN OCCUPANT, OR A
24 PROSPECTIVE TENANT WHO OTHERWISE MEETS THE REQUIREMENTS FOR
25 TENANCY MAY COMMENCE A CIVIL ACTION IN THE DISTRICT COURT OR CIRCUIT
26 COURT TO OBTAIN RELIEF FOR A VIOLATION OF THE MARYLAND ACCESSIBILITY
27 CODE ~~BY A PERSON THAT OPERATES~~ WITH REGARD TO A BUILDING OF FOUR OR
28 MORE DWELLING UNITS THAT IS SUBJECT TO THE MARYLAND ACCESSIBILITY
29 CODE.

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

1 (I) STATES THAT THE OCCUPANT, DEPENDANT OF AN
2 OCCUPANT, OR PROSPECTIVE TENANT WHO OTHERWISE MEETS THE
3 REQUIREMENTS FOR TENANCY NEEDS ACCESSIBILITY;

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

6 (III) STATES THAT THE OWNER OF THE MULTIFAMILY
7 BUILDING HAS 30 DAYS FROM THE DATE OF THE NOTICE TO MAKE
8 ARRANGEMENTS TO BRING THE MULTIFAMILY BUILDING INTO COMPLIANCE.

9 ~~(2)~~ (4) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, IF
10 THE COURT FINDS THAT A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE
11 HAS OCCURRED, THE COURT MAY:

12 (I) GRANT RELIEF AS THE COURT CONSIDERS
13 APPROPRIATE, INCLUDING INJUNCTIVE RELIEF;

14 (II) AWARD THE PREVAILING PARTY REASONABLE
15 ATTORNEY’S FEES AND COSTS; AND

16 (III) AWARD THE PREVAILING ~~PLAINTIFF~~ PARTY ACTUAL
17 ~~AND PUNITIVE~~ DAMAGES.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.