

Chapter 494

(Senate Bill 401)

AN ACT concerning

Public Safety – Building Codes – Balcony *Railing* Inspections (Jonathan's Law)

FOR the purpose of requiring ~~a political subdivision~~ certain political subdivisions to ~~conduct~~ require periodic inspections of certain multifamily dwellings with certain ~~balconies~~ balcony railings to ensure that each balcony railing meets certain requirements; authorizing ~~a political subdivision~~ certain political subdivisions to conduct the inspections, authorize a third party to conduct the ~~periodic~~ inspections, or require a certain professional inspector employed hired by the owner of a multifamily dwelling to conduct and certify the inspections in a certain manner; requiring certain political subdivisions to provide a certain notice to the owner of a multifamily dwelling; authorizing a political subdivision that otherwise inspects multifamily dwelling units according to a certain schedule to include the periodic inspections required under this Act as part of that inspection; prohibiting a unit from being inspected under certain circumstances; prohibiting Baltimore City from issuing or renewing a certain multiple-family dwelling license unless the applicant demonstrates that a professional inspector has completed a certain inspection; requiring Baltimore City to notify the holder of a multiple-family dwelling license of a certain inspection requirement at a certain time; authorizing a political subdivision to charge a fee for a periodic inspection; providing that this Act may not be construed to authorize a political subdivision to inspect an owner-occupied dwelling unit; defining a certain term defining certain terms; requiring a political subdivision to require a certain inspection under this Act of certain multifamily or multiple-family dwellings on or before a certain date; providing that this Act does not require a political subdivision to inspect a certain balcony railing more than once within a certain period of time, with a certain exception; providing for the application of this Act; and generally relating to inspections of balconies in multifamily dwellings certain balcony railings.

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

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

Article – Public Safety

12–203.

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

(2) “Department” means the Department of Housing and Community Development.

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

~~(I)~~ 1. AN APARTMENT HOUSE;

~~(II)~~ 2. A BOARDING HOUSE;

~~(III)~~ 3. A CONVENT;

~~(IV)~~ 4. A DORMITORY;

~~(V)~~ 5. A FRATERNITY OR SORORITY HOUSE;

~~(VI)~~ 6. A HOTEL OR MOTEL;

~~(VII)~~ 7. A MONASTERY; AND

~~(VIII)~~ 8. A VACATION TIME–SHARE PROPERTY.

(II) “MULTIFAMILY DWELLING DOES NOT INCLUDE:

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

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

(4) “PROFESSIONAL INSPECTOR” MEANS:

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

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

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

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

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

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

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

(i) an owner-occupied housing unit;

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

(iii) any housing exempted by the Department.

(e) The Minimum Livability Code shall:

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

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

(i) to reflect geographic differences; or

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

(3) include minimum standards for:

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

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

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

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

~~(3) (i) NOTHING IN THIS PARAGRAPH MAY BE CONSTRUED TO AUTHORIZE A POLITICAL SUBDIVISION TO INSPECT AN OWNER OCCUPIED DWELLING UNIT.~~

(3) (i) THIS PARAGRAPH DOES NOT APPLY IN BALTIMORE CITY.

(ii) A POLITICAL SUBDIVISION SHALL ~~CONDUCT~~ REQUIRE AN INSPECTION OF ~~AT LEAST 10% OF THE UNITS IN~~ EACH MULTIFAMILY DWELLING IN THE POLITICAL SUBDIVISION IN WHICH A UNIT IN THE MULTIFAMILY DWELLING HAS ~~A~~ BALCONY RAILINGS THAT ~~IS~~ ARE PRIMARILY CONSTRUCTED OF WOOD AT LEAST ONCE EVERY ~~5~~ 10 5 YEARS, BEGINNING NO LATER THAN 10 YEARS AFTER THE BALCONY IS CONSTRUCTED, TO ENSURE THAT ~~EACH BALCONY MEETS~~ THE BALCONY RAILINGS MEET THE REQUIREMENTS OF THE APPLICABLE LOCAL HOUSING CODE OR THE MINIMUM LIVABILITY CODE.

(iii) A POLITICAL SUBDIVISION MAY:

1. CONDUCT INSPECTIONS REQUIRED UNDER SUBPARAGRAPH (ii) OF THIS PARAGRAPH;

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

3. REQUIRE AN INSPECTION REQUIRED UNDER SUBPARAGRAPH (ii) OF THIS PARAGRAPH TO BE CONDUCTED AND CERTIFIED TO THE POLITICAL SUBDIVISION BY A PROFESSIONAL INSPECTOR ~~EMPLOYED~~ HIRED BY THE OWNER OF THE MULTIFAMILY DWELLING.

(iv) A CERTIFICATION MADE BY A PROFESSIONAL INSPECTOR UNDER SUBPARAGRAPH (iii)3 OF THIS PARAGRAPH SHALL:

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

2. INCLUDE:

- A. A STATEMENT THAT THE BALCONY RAILINGS HAVE BEEN INSPECTED;**
- B. THE NAME OF THE OWNER OF THE MULTIFAMILY DWELLING;**
- C. THE ADDRESS OF THE MULTIFAMILY DWELLING;**
- D. THE NAME OF THE INSPECTOR;**
- E. THE DATE THE MULTIFAMILY DWELLING WAS INSPECTED;**
- F. THE RESULTS OF THE INSPECTION; AND**
- G. ANY OTHER INFORMATION REQUIRED BY THE POLITICAL SUBDIVISION.**

(V) A POLITICAL SUBDIVISION SHALL:

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

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

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

~~**(IV) (VI) A POLITICAL SUBDIVISION THAT OTHERWISE INSPECTS MULTIFAMILY DWELLING UNITS AT LEAST ONCE EVERY 5 10 5 YEARS MAY INCLUDE THE INSPECTION REQUIRED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH AS PART OF THAT INSPECTION.**~~

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

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

(II) THIS PARAGRAPH APPLIES ONLY IN BALTIMORE CITY.

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

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

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

(I) an inspection made to enforce the Minimum Livability Code;

AND

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

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

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

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

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

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

(h) The Department:

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

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

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

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

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

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

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

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

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

SECTION 3. AND BE IT FURTHER ENACTED, That this Act does not require a political subdivision, other than Baltimore City, to inspect a balcony railing inspected before the effective date of this Act more than once within a ~~10-year~~ 5-year period.

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

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

Approved by the Governor, May 15, 2014.