E4 7lr1843 CF HB 203

By: Senator Ready

Introduced and read first time: February 3, 2017

Assigned to: Education, Health, and Environmental Affairs

## A BILL ENTITLED

1 AN ACT concerning 2 Public Safety - Maryland Accessibility Code - Applicability 3 FOR the purpose of clarifying that the Maryland Accessibility Code does not apply to a change of use that is not a certain change of occupancy; and generally relating to the 4 5 Maryland Accessibility Code. 6 BY repealing and reenacting, with amendments, 7 Article – Public Safety 8 Section 12–202 9 Annotated Code of Maryland 10 (2011 Replacement Volume and 2016 Supplement) SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, 11 12 That the Laws of Maryland read as follows: 13 Article - Public Safety 12 - 202. 14 15 (a) (1) In this section the following words have the meanings indicated. "Department" means the Department of Housing and Community 16 (2) Development. 17 18 (3)"Historic property" means a qualified historic building or facility that 19 is: 20 (i) listed or eligible for listing in the National Register of Historic 21Places: or 22 (ii) designated as historic under State or local law.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 2 3	` '	CCUP	TION DOES NOT APPLY TO A CHANGE OF USE THAT IS NOT A ANCY" AS DEFINED BY THE INTERNATIONAL EXISTING			
4 5 6	[(b)] (C) to make building disabilities to the		The Department shall adopt by regulation a State building code facilities accessible and usable by individuals with physical feasible.			
7	(2)	The 1	regulations shall be developed in conjunction with:			
8		(i)	the Maryland Department of Disabilities;			
9		(ii)	the Maryland Rehabilitation Association; and			
10		(iii)	the Maryland Society of Architects.			
11 12	[(c)] (D) or any other gover	The Maryland Accessibility Code shall be enforced by local jurisdictions enmental units with authority over buildings or facilities.				
13	[(d)] <b>(</b> E <b>)</b>	The I	Department:			
14 15	(1) Code; and	shall	decide questions of interpretation of the Maryland Accessibility			
16 17	(2) Code.	may	authorize waivers or exemptions under the Maryland Accessibility			
18 19	[(e)] <b>(F)</b> Accessibility Code		ddition to any other penalty for a violation of the Maryland epartment shall investigate to determine if a violation exists.			
20 21 22	[(f)] (G) Accessibility Code mediation and cor		If the Department determines that a violation of the Maryland, the Department may resolve any issue related to the violation by on.			
23 24 25 26	(2) In addition, the Department may bring an action for equitable or other appropriate relief in a court in the jurisdiction in which the violation occurred, including an action to enjoin the construction, renovation, or occupancy of a building or facility that violates the Maryland Accessibility Code.					

- 27 (3) Notwithstanding paragraph (2) of this subsection, the Department may 28 not seek an injunction until 5 working days after the Department has sought to resolve the 29 violation through mediation and conciliation.
- [(g)] (H) The Attorney General may prosecute civil cases that arise under this section that are referred to the Attorney General by the Department.

1 2 3 4	[(h)] (I) (1) The Department shall cooperate with and provide technical assistance to the Commission on Civil Rights concerning an action brought by the Commission on Civil Rights to enforce § 20–705 or § 20–706 of the State Government Article.					
5 6	(2) This section does not limit the authority of the Commission on Civil Rights to enforce §§ 20–705 and 20–706 of the State Government Article.					
7 8	[(i)] (J) (1) A person may not willfully violate the Maryland Accessibility Code.					
9 10 11	(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.					
12 13	(3) A penalty imposed under this subsection is in addition to and not a substitute for any other penalty imposed under federal, State, or local law.					
14 15 16	[(j)] (K) (1) This subsection does not apply to an aggrieved individual who has an existing private right of action against a housing authority to enforce accessibility requirements under:					
17	(i) Section 504 of the federal Rehabilitation Act of 1973; or					
18	(ii) the federal Americans with Disabilities Act of 1990.					
19 20 21 22 23	an occupant, or a prospective tenant who otherwise meets the requirements for tenancy may commence a civil action in the District Court or circuit court to obtain relief for a violation of the Maryland Accessibility Code with regard to a building of four or more					
24	(i) is subject to the Maryland Accessibility Code; but					
25	(ii) is not a historic property.					
26 27 28 29	(3) At least 30 days before filing a complaint under this subsection, an occupant, a dependent of an occupant, or a prospective tenant who otherwise meets the requirements for tenancy shall provide written notice to the property manager, landlord or rental agent that:					
30 31	(i) states that the occupant, dependent of an occupant, or prospective tenant who otherwise meets the requirements for tenancy needs accessibility;					

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to be noncompliant; and

identifies the location of the multifamily building that is alleged

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1		(iii)	states that the owner of the multifamily building has 30 days
2	from the date of t	he noti	ce to make arrangements to bring the multifamily building into
3	compliance.		
4	(4)	In an	action brought under this subsection, if the court finds that a
5	violation of the Ma	aryland	Accessibility Code has occurred, the court may:
6		(i)	grant relief as the court considers appropriate, including
7	injunctive relief;		
8		(ii)	award the prevailing party reasonable attorney's fees and costs;
9	and		
10		(iii)	award the prevailing party actual damages.
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11	SECTION 2	2. AND	BE IT FURTHER ENACTED, That this Act shall take effect
12	October 1, 2017.		,
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