

# SENATE BILL 902

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CF HB 1279

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By: **Senators Muse and Zirkin**

Introduced and read first time: February 11, 2013

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Statewide Building Codes – Maryland Accessibility Code – Enforcement**

3 FOR the purpose of authorizing an aggrieved individual to commence a civil action to  
4 obtain relief for a violation of the Maryland Accessibility Code by a person that  
5 operates a building of four or more dwelling units under certain circumstances;  
6 authorizing a court that finds that a violation of the Maryland Accessibility  
7 Code has occurred to grant certain relief and award certain costs and damages  
8 under certain circumstances; and generally relating to enforcement actions  
9 brought by aggrieved individuals under the Maryland Accessibility Code.

10 BY repealing and reenacting, with amendments,  
11 Article – Public Safety  
12 Section 12–202  
13 Annotated Code of Maryland  
14 (2011 Replacement Volume and 2012 Supplement)

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

17 **Article – Public Safety**

18 12–202.

19 (a) In this section, “Department” means the Department of Housing and  
20 Community Development.

21 (b) (1) The Department shall adopt by regulation a State building code to  
22 make buildings and facilities accessible and usable by individuals with physical  
23 disabilities to the extent feasible.

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) the Governor's Committee on Employment of People with  
2 Disabilities;

3 (ii) the Maryland Rehabilitation Association; and

4 (iii) the Maryland Society of Architects.

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

7 (d) The Department:

8 (1) shall decide questions of interpretation of the Maryland  
9 Accessibility Code; and

10 (2) may authorize waivers or exemptions under the Maryland  
11 Accessibility Code.

12 (e) In addition to any other penalty for a violation of the Maryland  
13 Accessibility Code, the Department shall investigate to determine if a violation exists.

14 (f) (1) If the Department determines that a violation of the Maryland  
15 Accessibility Code exists, the Department may resolve any issue related to the  
16 violation by mediation and conciliation.

17 (2) In addition, the Department may bring an action for equitable or  
18 other appropriate relief in a court in the jurisdiction in which the violation occurred,  
19 including an action to enjoin the construction, renovation, or occupancy of a building  
20 or facility that violates the Maryland Accessibility Code.

21 (3) Notwithstanding paragraph (2) of this subsection, the Department  
22 may not seek an injunction until 5 working days after the Department has sought to  
23 resolve the violation through mediation and conciliation.

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

26 (h) (1) The Department shall cooperate with and provide technical  
27 assistance to the Commission on Civil Rights concerning an action brought by the  
28 Commission on Civil Rights to enforce § 20-705 or § 20-706 of the State Government  
29 Article.

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

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

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

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

6           **(J) (1) AN AGGRIEVED INDIVIDUAL MAY COMMENCE A CIVIL ACTION**  
7 **IN THE DISTRICT COURT OR CIRCUIT COURT TO OBTAIN RELIEF FOR A**  
8 **VIOLATION OF THE MARYLAND ACCESSIBILITY CODE BY A PERSON THAT**  
9 **OPERATES A BUILDING OF FOUR OR MORE DWELLING UNITS THAT IS SUBJECT**  
10 **TO THE MARYLAND ACCESSIBILITY CODE.**

11           **(2) IN AN ACTION BROUGHT UNDER THIS SUBSECTION, IF THE**  
12 **COURT FINDS THAT A VIOLATION OF THE MARYLAND ACCESSIBILITY CODE HAS**  
13 **OCCURRED, THE COURT MAY:**

14                   **(I) GRANT RELIEF AS THE COURT CONSIDERS**  
15 **APPROPRIATE, INCLUDING INJUNCTIVE RELIEF;**

16                   **(II) AWARD THE PREVAILING PARTY REASONABLE**  
17 **ATTORNEY'S FEES AND COSTS; AND**

18                   **(III) AWARD THE PREVAILING PLAINTIFF ACTUAL AND**  
19 **PUNITIVE DAMAGES.**

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