**A** **BILL**

TO ENACT THE “MULTIFAMILY DWELLING SAFETY ACT”, TO AMEND TITLE 40 OF THE 1976 CODE, RELATING TO PROFESSIONS AND OCCUPATIONS, BY ADDING CHAPTER 21, TO REQUIRE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION TO ADOPT A MULTIFAMILY DWELLING BALCONY CODE ESTABLISHING MINIMUM STANDARDS FOR BALCONY RAILINGS THAT ARE PRIMARILY CONSTRUCTED OF WOOD AND ARE LOCATED IN MULTIFAMILY DWELLINGS, TO REQUIRE THE DEPARTMENT PERIODICALLY TO CONDUCT INSPECTIONS OF SUCH BALCONIES TO ASCERTAIN COMPLIANCE WITH THE CODE, TO PROVIDE REMEDIES FOR VIOLATIONS, AND TO DEFINE NECESSARY TERMS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act must be known and may be cited as the “Multifamily Dwelling Safety Act”.

SECTION 2. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 21

Multifamily Dwelling Safety Act

Section 40-21-10. As used in this chapter:

(1) ‘Department’ means the Department of Labor, Licensing and Regulation.

(2) ‘Inspector’ means a person employed by the department for the purpose of conducting balcony inspections in the administration of this chapter.

(3)(a) ‘Multifamily dwelling’ means a property containing two or more dwelling units, including:

(i) an apartment house;

(ii) a boarding house;

(iii) a convent;

(iv) a dormitory;

(v) a fraternity or sorority house;

(vi) a hotel or motel;

(vii) a monastery; and

(viii) a vacation timeshare property.

(b) ‘Multifamily dwelling’ does not include a condominium or other property subject to the Horizontal Property Act.

(4) ‘Special inspector’ means an inspector licensed by the department but not employed by the department.

Section 40-21-20. To be qualified to serve as an inspector or special inspector, a person must be:

(1) a professional engineer licensed under Chapter 22 of this title and experienced in the practice of structural engineering;

(2) an architect licensed under Chapter 3 of this title and knowledgeable in the design, construction, and inspection of buildings; or

(3) for purposes of the inspection of a multifamily dwelling containing more than ten dwelling units, a qualified person with at least five years of experience in multifamily dwelling operations, upkeep, and maintenance as considered appropriate by the department.

Section 40-21-30. (A) The department shall adopt by rule a Multifamily Dwelling Balcony Code to set minimum standards for balcony railings that are primarily constructed of wood and are located in multifamily dwellings.

(B) The Multifamily Dwelling Balcony Code applies to residential structures used for human habitation, excluding owner-occupied housing units and other housing exempted by the department through regulation.

Section 40-21-40. (A) The department shall inspect balcony railings that are primarily constructed of wood in each multifamily dwelling that has such balcony railings at least once every five years, beginning no later than ten years after the balcony is constructed, to ensure that the balcony railings meet the requirements of the Multifamily Dwelling Balcony Code.

(B) In performing an inspection, the department may employ its own inspector or may authorize a special inspector to conduct the inspection on behalf of the department.

(C) The department shall provide notice to the owner of a multifamily dwelling at least ten days before conducting an inspection.

(D) The owner of a multifamily dwelling subject to regulation by this chapter shall grant access to the dwelling and all balconies in the dwelling to the department for the purpose of conducting inspections pursuant to the provisions of this chapter. Inspections must be permitted during normal business hours or as otherwise provided by the department.

(E) If the department determines through an inspection of a balcony railing that the railing satisfies the requirements of the Multifamily Dwelling Balcony Code, then the department shall issue a certification of compliance. This certification must include:

(1) a statement that the balcony railings have been inspected;

(2) the name of the owner of the multifamily dwelling;

(3) the address of the multifamily dwelling;

(4) the name of the inspector or special inspector;

(5) the date the multifamily dwelling was inspected;

(6) the results of the inspection; and

(7) any other information required by the department.

(F) If the department determines that a balcony railing fails to comply with the requirements of the Multifamily Dwelling Balcony Code, then the department may issue a written order:

(1) to direct that the deficiencies be corrected and to set a date for correction; and

(2) for the temporary cessation of access to the balcony until conditions are corrected to the satisfaction of the department through a subsequent inspection.

Section 40-21-50. The department shall charge a property owner a fee for inspections made to enforce the Multifamily Dwelling Balcony Code. The amount of this fee must be determined by the department through regulation but must be sufficient to cover the cost of performing the inspection.

Section 40-21-60. On application of the property owner, the department may waive the applicability of the Multifamily Dwelling Balcony Code to a unit of rental housing if:

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

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

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

Section 40-21-70. The department may authorize waivers or exemptions under the Multifamily Dwelling Balcony Code.

Section 40-21-80. (A) A property owner or tenant may not wilfully violate the Multifamily Dwelling Balcony Code.

(B) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, is subject for each violation to imprisonment not exceeding thirty days, a fine not exceeding five hundred dollars for each day the violation exists, or both.”

SECTION 3. (A) Within six months after the effective date of this act, the Department of Labor, Licensing and Regulation shall adopt by rule a Multifamily Dwelling Balcony Code, pursuant to Section 40-21-30, as added by this act, to set minimum standards for balcony railings that are primarily constructed of wood and are located in multifamily dwellings.

(B) Within five years after the effective date of this act, the Department of Labor, Licensing and Regulation shall conduct initial inspections of balcony railings that are in existence on the effective date of this act, pursuant to Section 40-21-40(A), as added by this act.

SECTION 4. This act takes effect upon approval by the Governor.

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