

1                                    AMENDMENT TO HOUSE BILL 46

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 46 by replacing the  
3 title with the following:

4            "AN ACT in relation to window guards and guard rails in  
5 residential buildings."; and

6 by replacing everything after the enacting clause with the  
7 following:

8            "Section 1. Short title. This Act may be cited as the  
9 Window Guard and Guard Rail Act.

10           Section 5. Public policy. The General Assembly finds that  
11 the public health and safety require the installation of  
12 guards on windows and other places in residential buildings  
13 to prevent persons from falling or injury.

14           Section 10. Definition. In this Act, "Department" means  
15 the Department of Public Health.

16           Section 15. Guards required.

17           (a) Guards must be installed at every point of danger in  
18 a residential building to prevent persons from being injured  
19 or falling. As used in this Section, "point of danger"

1 includes, but is not limited to, the following:

2 (1) The edge of every floor, balcony, mezzanine, or  
3 other open space where a person, including but not  
4 limited to a child or infant, could fit through an open  
5 space in any location used or intended for human  
6 occupancy, if the edge or open space is at a height of  
7 more than one foot above the floor, ground, or pavement  
8 directly below the edge or opening.

9 (2) Every window, doorway, or other opening that  
10 does not have a sill, guard, rail, barrier or other  
11 structure at least 3.5 feet above the floor, ground, or  
12 pavement of a room or space, unless the window or doorway  
13 opens directly on the ground or pavement or on a space  
14 protected by guards as required under this Section.

15 (b) The guards required under this Section may be formed  
16 by walls, grills, balustrades, or railing systems. The guards  
17 must be constructed so that no person, including but not  
18 limited to a child or infant, is able to fit through the  
19 guard, and the vertical balusters must not be more than 3  
20 inches apart. The guard must be constructed so that no human  
21 being is capable of falling through it, and of sufficient  
22 strength to withstand the weight and force of several falling  
23 adults.

24 (c) The guard must comply with any fire code applicable  
25 to the building and, if necessary to comply with the fire  
26 code, must be removable in case of emergency. The fire  
27 commissioner or other head of the fire department in whose  
28 jurisdiction the building is located must approve the guard  
29 and certify that the guard complies with the fire code and  
30 that fire personnel can quickly remove the guard if  
31 necessary.

32 (d) The guard must not be less than 3.5 feet in height  
33 from the floor, ground, or pavement, and must be installed in  
34 a manner approved by the Department.

1           (e) The owner of a residential building or the owner's  
2 agent, but not a tenant of such a building if the tenant is  
3 not an owner of the building or an agent of the owner, is  
4 responsible for installing guards as described in this Act at  
5 points of danger as defined in this Act.

6           Section 20. Violation; penalty; liability.

7           (a) A building owner or agent of an owner who knowingly  
8 fails to install guards as required in this Act or the rules  
9 implementing this Act commits a Class B misdemeanor.

10          (b) A building owner or agent of a building owner who  
11 fails to install guards as required in this Act or the rules  
12 implementing this Act is strictly liable in tort for injuries  
13 resulting from that failure.

14          Section 25. Administration and enforcement. The  
15 Department shall administer and enforce this Act.

16          Section 30. Application of Act.

17          (a) The owner of a residential building that is occupied  
18 as a residence on the effective date of this Act, and the  
19 owner's agent, if applicable, must comply with this Act  
20 within 6 months after the effective date of this Act.

21          (b) In the case of a residential building that has been  
22 designated a landmark, the guards required under this Act may  
23 be installed inside the building.

24          Section 35. Rules. The Department shall adopt rules  
25 necessary to administer and enforce this Act.

26          Section 40. Home rule. A home rule unit may not regulate  
27 the installation of guards in residential buildings in a  
28 manner less restrictive than the regulation by the State of  
29 the installation of guards in residential buildings under

1 this Act. A home rule unit may regulate the installation of  
2 guards in residential buildings in a manner more restrictive  
3 than this Act. This Section is a limitation under subsection  
4 (i) of Section 6 of Article VII of the Illinois Constitution  
5 on the concurrent exercise by home rule units of powers and  
6 functions exercised by the State."