

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 28

(Senator Young)

Judicial Proceedings

Environmental Matters

Real Property - Blighted Property - Nuisance Abatement

This bill authorizes a local government to use a specified process to remediate blighted property; if used by a local government, the bill requires the owner of a blighted property, on notification from the appropriate unit of local government, to remediate the property's blighted condition by taking specified actions. If an owner fails to take the appropriate actions, the local government may declare the property a nuisance and order the owner to promptly abate the nuisance. The local government must grant the owner a six-month extension to abate the nuisance if the owner lists the property for sale and provides specified disclosures. If the owner fails to abate the nuisance and does not sell the property, the bill authorizes the local government to impose a fine on the owner equal to three times the amount of the local property tax imposed on the property.

The bill does not limit or supersede any other power of a local government to remediate blighted property.

Fiscal Summary

State Effect: The bill does not directly affect State governmental operations or finances.

Local Effect: Expenditures for local governments that use the authority under the bill may increase to reflect additional personnel and administrative costs from reviewing and approving remediation plans and performing inspections to confirm the completion of a remediation. Local revenues may increase due to the imposition of new penalty and related property lien provisions. Any increase in revenues from the receipt of transfer taxes paid by owners of blighted property is expected to be minimal.

Small Business Effect: None.

Analysis

Bill Summary: “Blighted property” is defined as property that (1) has been vacant or boarded for at least one year; (2) has been the subject of nuisance complaints; (3) does not meet the requirements of the applicable local housing code; and (4) either has external structural failings or poses a health or safety hazard as determined by the appropriate enforcement officer. “Blighted property” does not include a vacant or boarded property that was damaged by fire or flooding within two years before the appropriate unit of local government issues the specified notice, if the owner provides evidence that the owner promptly filed an insurance claim and the owner’s insurer has not paid the claim.

The bill defines “lien holder” as a person who has a lien on or a secured interest in blighted property.

“Owner” means (1) a person holding record title to blighted property; (2) a successful bidder at a foreclosure sale of blighted property, on ratification of the sale and exhaustion of all rights to appeal the ratification or otherwise to delay transfer of title; or (3) a person who has a legal right under a court order, including a court order extinguishing a right of redemption, to possession of property that is or becomes blighted property.

To remediate the property’s blighted condition, the owner must (1) submit a remediation plan for approval by the local government on a form provided by the government; (2) begin the remediation within 90 days after approval of the plan; and (3) complete the remediation within 120 days after the remediation has begun. The bill authorizes the local government to grant an extension of the amount of time needed to begin the remediation.

When notifying the owner of blighted property of the property’s condition, the unit of local government must also send written notice to all lienholders of record or otherwise known to the unit of local government. The written notice to lienholders must include a copy of the notification sent to the owner and must also describe the aforementioned actions necessary to remediate the property.

To receive the six-month extension noted above, the owner of the blighted property must list the property for sale. The local government may also grant an additional reasonable extension for the owner to sell or conclude settlement of the sale. In the event that the property is listed for sale, the owner must provide written notice that the property has been declared a nuisance, the owner has been ordered to abate the nuisance, and the property is being sold “as is.” Then, any obligation to remediate the blighted property falls to the purchaser of the property.

The bill authorizes a local government to record a notice of the fine among the land records of the county where the property is located, indexed in the name of the record owner as grantor. On recordation of the notice, the fine constitutes a lien on the property effective as of the date of recordation.

Current Law: The concept of “nuisance” originates under common law and is something that causes offense, annoyance, trouble, or injury. A private nuisance obstructs the rights of a specific individual or group, while a public nuisance is an act or omission that obstructs, damages, or inconveniences the rights of the community.

Several types of nuisances are specifically addressed in State law, including:

- conditions that are dangerous to health or safety, including an inadequately protected swimming pool, an unprotected open ditch, an unsanitary outhouse, a foul pigpen, an improperly functioning sewage system, an unkempt junkyard or scrap metal processing facility, an excessive accumulation of trash or garbage, a dead animal, a contaminated or inadequately protected water supply, a rodent harborage, poor housekeeping that could endanger an individual’s health, or any condition that may endanger health and may be transmitted by means including surface drainage and air currents (Title 20 of the Health-General Article);
- dwellings, buildings, vehicles, vessels, aircraft, or any other place(s) used by individuals to administer illegally controlled substances or where controlled dangerous substances or controlled substances or controlled paraphernalia are manufactured, distributed, dispensed, stored, or concealed illegally (Title 5 of the Criminal Law Article);
- conditions affecting public health and involving plumbing, drainage, offensive trades, water supplies, and disposal of any waste material (Title 10 of the Environment Article); and
- property that is used for prostitution or for the administration, manufacture, distribution, or storage of a controlled dangerous substance or related paraphernalia (Title 14 of the Real Property Article).

Depending on the nuisance, the department charged with abating the nuisance is authorized to enter onto private property to determine its existence.

Additionally, each county board of health is authorized to adopt and enforce rules and regulations on any nuisance or cause of disease in the county. If a county health officer investigates and finds a nuisance, the health officer is required to serve a written notice to

the person who is causing the nuisance, ordering the person to abate the nuisance within a specified period of time.

Additional Information

Prior Introductions: A similar bill, HB 1353 of 2012, was withdrawn after being heard in the House Environmental Matters Committee. Its cross file, SB 753, received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Calvert, Howard, Montgomery, and Prince George's counties; City of Rockville; Baltimore City; Department of Housing and Community Development; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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