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**By: Delegates Curran, McIntosh, Doory, C. Davis, Cummings, Montague, Kirk, Fulton, Harrison, Rawlings, Opara, T. Murphy, Campbell, Krysiak, Branch, Dypski, C. Mitchell, Rosenberg, Marriott, McHale, Oaks, and Hammen**

Introduced and read first time: January 29, 1996

Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Nuisance Abatement and Local Code Enforcement - Community**  
3 **Associations - Enforcement Authority**

4 FOR the purpose of allowing certain community associations to bring certain actions in  
5 the circuit court against qualifying nuisances, including certain code violations;  
6 limiting the application of this Act to a specified region; requiring certain notices;  
7 requiring that a proceeding under this Act be expedited in certain manners;  
8 providing that a political subdivision of the State or any agency of a political  
9 subdivision may not be subject to certain actions; providing for and limiting the  
10 construction of this Act; defining certain terms; and generally relating to the right of  
11 community associations to seek judicial abatement of certain nuisances.

12 BY adding to

13 Article - Real Property  
14 Section 14-123  
15 Annotated Code of Maryland  
16 (1988 Replacement Volume and 1995 Supplement)

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

19 **Article - Real Property**

20 14-123.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (2) "COMMUNITY ASSOCIATION" MEANS A MARYLAND NONPROFIT  
24 ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT:

25 (I) IS COMPRISED OF AT LEAST 40% OF ADULT RESIDENTS OF A  
26 LOCAL COMMUNITY AS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN THE  
27 BYLAWS OR CHARTER OF THE ASSOCIATION;

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1 (II) REQUIRES, AS A CONDITION OF MEMBERSHIP, THE  
2 VOLUNTARY PAYMENT OF MONETARY DUES AT LEAST ANNUALLY;

3 (III) IS OPERATED EXCLUSIVELY FOR THE PROMOTION OF SOCIAL  
4 WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND ENHANCEMENT;

5 (IV) HAS BEEN IN EXISTENCE FOR AT LEAST 2 YEARS WHEN IT  
6 FILES SUIT UNDER THIS SECTION;

7 (V) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE  
8 INTERNAL REVENUE CODE; AND

9 (VI) IS A MARYLAND CORPORATION IN GOOD STANDING.

10 (3) "NUISANCE" MEANS, WITHIN THE BOUNDARIES OF THE COMMUNITY  
11 REPRESENTED BY THE COMMUNITY ASSOCIATION, AN ACT OR CONDITION  
12 KNOWINGLY CREATED, PERFORMED, OR MAINTAINED ON PRIVATE PROPERTY  
13 WITHOUT LAWFUL AUTHORITY OR THAT VIOLATES A LOCAL CODE AND THAT:

14 (I) AFFECTS OTHER RESIDENTS;

15 (II) IMPACTS THE VALUE OF NEIGHBORING PROPERTY; AND

16 (III) 1. IS INJURIOUS TO PUBLIC HEALTH, SAFETY, OR WELFARE;  
17 OR

18 2. OBSTRUCTS THE REASONABLE USE OF PROPERTY.

19 (B) THIS SECTION ONLY APPLIES TO A NUISANCE LOCATED WITHIN THE  
20 BOUNDARIES OF BALTIMORE CITY.

21 (C) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, A  
22 COMMUNITY ASSOCIATION MAY SEEK INJUNCTIVE AND OTHER EQUITABLE RELIEF  
23 IN THE CIRCUIT COURT FROM A NUISANCE UPON SHOWING:

24 (I) THE DEFENDANT HAD NOTICE OF THE EXISTENCE OF THE  
25 NUISANCE OR THAT THE COMMUNITY ASSOCIATION MADE REASONABLE ATTEMPTS  
26 TO NOTIFY A DEFENDANT OF THE EXISTENCE OF THE NUISANCE; AND

27 (II) THE NUISANCE HAS NOT BEEN ABATED.

28 (2) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION BASED ON  
29 A VIOLATION OF A LOCAL CODE UNTIL 60 DAYS AFTER THE COMMUNITY  
30 ASSOCIATION GIVES NOTICE OF THE VIOLATION BY CERTIFIED MAIL TO THE  
31 APPLICABLE LOCAL ENFORCEMENT AGENCY.

32 (3) (I) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION  
33 CONCERNING COMMERCIAL PROPERTY UNTIL 75 DAYS AFTER THE TENANT, IF ANY,  
34 AND OWNER OF RECORD RECEIVE NOTICE FROM THE COMMUNITY ASSOCIATION  
35 THAT A NUISANCE EXISTS.

36 (II) THE NOTICE SHALL SPECIFY:

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1 1. THE DATE AND TIME OF DAY THE NUISANCE WAS FIRST  
2 DISCOVERED; AND

3 2. THE LOCATION ON THE PROPERTY WHERE THE  
4 NUISANCE IS ALLEGEDLY OCCURRING.

5 (III) THE NOTICE SHALL BE:

6 1. HAND DELIVERED TO THE TENANT, IF ANY, AND THE  
7 OWNER OF RECORD; OR

8 2. SENT BY CERTIFIED MAIL TO THE TENANT, IF ANY, AND  
9 THE OWNER OF RECORD.

10 (4) A PROCEEDING UNDER THIS SECTION:

11 (I) TAKE PRECEDENCE ON THE DOCKET;

12 (II) BE HEARD AT THE EARLIEST PRACTICABLE DATE; AND

13 (III) BE EXPEDITED IN EVERY WAY.

14 (D) A POLITICAL SUBDIVISION OF THE STATE OR ANY AGENCY OF A  
15 POLITICAL SUBDIVISION MAY NOT BE SUBJECT TO ANY ACTION BROUGHT UNDER  
16 THIS SECTION OR AN ACTION RESULTING FROM AN ACTION BROUGHT UNDER THIS  
17 SECTION AGAINST A PRIVATE PROPERTY OWNER.

18 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION  
19 MAY NOT BE CONSTRUED AS TO ABROGATE ANY EQUITABLE OR LEGAL RIGHT OR  
20 REMEDY OTHERWISE AVAILABLE UNDER THE LAW TO ABATE A NUISANCE.

21 (2) THIS SECTION MAY NOT BE CONSTRUED AS TO GRANT STANDING  
22 FOR AN ACTION:

23 (I) CHALLENGING ANY ZONING APPLICATION OR APPROVAL;

24 (II) SEEKING ENFORCEMENT OF ANY ZONING LAW OR  
25 REGULATION; OR

26 (III) INVOLVING ANY MATTER IN WHICH A CERTIFICATE, LICENSE,  
27 PERMIT, OR REGISTRATION IS REQUIRED OR ALLOWED UNDER THE ENVIRONMENT  
28 ARTICLE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 October 1, 1996.