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Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments

House action: Adopted

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CHAPTER ____

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 based on~~ certain code
6 violations; limiting the application of this Act to a specified region; requiring certain
7 notices; requiring the filing of a bond for certain purposes; requiring that a
8 proceeding under this Act be expedited in certain manners; providing that a
9 political subdivision of the State or any agency of a political subdivision may not be
10 subject to certain actions; providing for and limiting the construction of this Act;
11 defining certain terms; and generally relating to the right of community associations
12 to seek judicial abatement of certain nuisances.

13 BY adding to

14 Article - Real Property

15 Section 14-123

16 Annotated Code of Maryland

17 (1988 Replacement Volume and 1995 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

19 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Real Property**

2 14-123.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

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

7 (I) IS COMPRISED OF AT LEAST ~~40%~~ 25% OF ADULT RESIDENTS OF
8 A LOCAL COMMUNITY CONSISTING OF 40 OR MORE INDIVIDUAL HOUSEHOLDS AS
9 DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN THE BYLAWS OR CHARTER OF
10 THE ASSOCIATION;

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

13 (III) IS OPERATED ~~EXCLUSIVELY~~ PRIMARILY FOR THE PROMOTION
14 OF SOCIAL WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND
15 ENHANCEMENT;

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

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

20 (VI) ~~IS IN THE CASE OF~~ A MARYLAND CORPORATION, THE
21 CORPORATION IS IN GOOD STANDING.

22 (3) "LOCAL CODE VIOLATION" MEANS A VIOLATION UNDER THE
23 FOLLOWING PROVISIONS OF THE BALTIMORE CITY CODE AS AMENDED FROM TIME
24 TO TIME OR UNDER ANY APPLICABLE CODE RELATING TO THE FOLLOWING
25 PROVISIONS INCORPORATED BY BALTIMORE CITY BY REFERENCE:

26 (I) THE FIRE PREVENTION CODE UNDER ARTICLE 9;

27 (II) ANIMAL CONTROL, MOSQUITOES, AND NOISE CONTROL
28 SUBHEADINGS OF ARTICLE 11 (HEALTH);

29 (III) THE HOUSING CODE UNDER ARTICLE 13;

30 (IV) PUBLIC NUISANCE PROVISIONS UNDER ARTICLE 19; AND

31 (V) THE REFUSE SUBHEADING UNDER ARTICLE 23.

32 ~~(3)~~ (4) "NUISANCE" MEANS, WITHIN THE BOUNDARIES OF THE
33 COMMUNITY REPRESENTED BY THE COMMUNITY ASSOCIATION, AN ACT OR
34 CONDITION KNOWINGLY CREATED, PERFORMED, OR MAINTAINED ON PRIVATE
35 PROPERTY ~~WITHOUT LAWFUL AUTHORITY OR THAT VIOLATES~~ CONSTITUTES A
36 LOCAL CODE VIOLATION AND THAT:

37 (I) SIGNIFICANTLY AFFECTS OTHER RESIDENTS;

3

1 (II) NEGATIVELY IMPACTS THE VALUE OF NEIGHBORING
2 PROPERTY; AND

3 (III) 1. IS INJURIOUS TO PUBLIC HEALTH, SAFETY, OR WELFARE;
4 OR

5 2. OBSTRUCTS THE REASONABLE USE OF PROPERTY.

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

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

11 (I) ~~THE DEFENDANT HAD NOTICE OF THE EXISTENCE OF THE~~
12 ~~NUISANCE OR THAT THE COMMUNITY ASSOCIATION MADE REASONABLE ATTEMPTS~~
13 ~~TO NOTIFY A DEFENDANT OF THE EXISTENCE OF THE NUISANCE~~ NOTICE
14 REQUIREMENTS OF THIS SUBSECTION HAVE BEEN SATISFIED; AND

15 (II) THE NUISANCE HAS NOT BEEN ABATED.

16 (2) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION BASED ON
17 ~~A VIOLATION OF A LOCAL CODE~~ NUISANCE UNTIL 60 DAYS AFTER THE COMMUNITY
18 ASSOCIATION GIVES NOTICE OF THE VIOLATION BY CERTIFIED MAIL, RETURN
19 RECEIPT REQUESTED, TO THE APPLICABLE LOCAL ENFORCEMENT AGENCY.

20 (3) (I) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION
21 ~~CONCERNING COMMERCIAL PROPERTY~~ UNTIL ~~75~~ 60 DAYS AFTER THE TENANT, IF
22 ANY, AND OWNER OF RECORD RECEIVE NOTICE FROM THE COMMUNITY
23 ASSOCIATION THAT A NUISANCE EXISTS AND THAT LEGAL ACTION MAY BE TAKEN
24 IF THE NUISANCE IS NOT ABATED.

25 (II) THE NOTICE SHALL SPECIFY:

26 1. THE NATURE OF THE ALLEGED NUISANCE;

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

29 2. 3. THE LOCATION ON THE PROPERTY WHERE THE
30 NUISANCE IS ALLEGEDLY OCCURRING.

31 (III) THE NOTICE SHALL BE:

32 ~~1. HAND DELIVERED~~ PROVIDED TO THE TENANT, IF ANY,
33 AND THE OWNER OF RECORD; ~~OR~~

34 ~~2. SENT BY CERTIFIED MAIL TO THE TENANT, IF ANY, AND~~
35 ~~THE OWNER OF RECORD~~ IN THE SAME MANNER AS SERVICE OF PROCESS IN A CIVIL
36 IN PERSONAM ACTION UNDER THE MARYLAND RULES.

37 (IV) IN FILING A SUIT UNDER THIS SECTION, A COMMUNITY
38 ASSOCIATION SHALL CERTIFY TO THE COURT WHAT STEPS THE COMMUNITY

1 ASSOCIATION HAS TAKEN TO SATISFY THE NOTICE REQUIREMENTS UNDER THIS
2 SUBSECTION.

3 (4) RELIEF MAY NOT BE PROVIDED UNDER THIS SECTION UNLESS THE
4 COMMUNITY ASSOCIATION FILES WITH THE COURT A BOND IN AN AMOUNT
5 DETERMINED BY THE COURT AND WITH A SURETY APPROVED BY THE COURT.
6 CONDITIONED TO ANSWER TO THE ADVERSE PARTY FOR ANY COSTS THE PARTY
7 MAY SUSTAIN AS A RESULT OF THE SUIT, INCLUDING REASONABLE ATTORNEY
8 FEES, IF THE COURT FINDS THAT THE ACTION WAS FILED IN BAD FAITH OR
9 WITHOUT SUBSTANTIAL JUSTIFICATION.

10 (5) A PROCEEDING UNDER THIS SECTION SHALL:

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.