
By: Senator Pica

Constitutional Requirements Complied with for Introduction in the last 35 Days of Session

Introduced and read first time: March 7, 1996

Rule 32(a) suspended

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Nuisance Abatement - Controlled Dangerous Substances**

3 FOR the purpose of authorizing a court to issue certain orders following a hearing to
4 abate a nuisance; authorizing the court to require a tenant, under certain
5 circumstances, to vacate the premises within a certain period of time; authorizing
6 the court to order an owner-occupant under certain circumstances to abate the
7 nuisance; authorizing the court to take certain actions if the owner-occupant does
8 not comply with the order to abate; authorizing the court to issue certain orders to
9 a tenant or owner-occupant of commercial property under certain circumstances;
10 specifying that the owner of property who should have reasonably known of the
11 existence of the nuisance may be ordered by the court to take certain corrective
12 actions; requiring an expedited appeal and oral argument to be heard by the court
13 within a certain period of time; altering a definition; and generally relating to
14 nuisance abatement.

15 BY repealing and reenacting, with amendments,
16 Article - Real Property
17 Section 14-120
18 Annotated Code of Maryland
19 (1996 Replacement Volume)

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

22 **Article - Real Property**

23 14-120.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) "Community association" means:

26 (i) A nonprofit association, corporation, or other organization that is:

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1 1. Comprised of residents of a community within which a
2 nuisance is located;

3 2. Operated exclusively for the promotion of social welfare and
4 general neighborhood improvement and enhancement; and

5 3. Exempt from taxation under § 501(c)(3) or (4) of the Internal
6 Revenue Code; or

7 (ii) A nonprofit association, corporation, or other organization that is:

8 1. Comprised of residents of a contiguous community that is
9 defined by specific geographic boundaries, within which a nuisance is located; and

10 2. Operated for the promotion of the welfare, improvement and
11 enhancement of that community.

12 (3) "Controlled dangerous substances" has the meaning stated in Article 27,
13 § 279(a) and (b) of the Code.

14 (4) "Nuisance" means a property that is used:

15 (i) By persons who assemble for the specific purpose of illegally
16 administering a controlled dangerous substance;

17 (ii) For the illegal manufacture, or distribution of:

18 1. A controlled dangerous substance; or

19 2. Controlled paraphernalia, as defined in Article 27, [§] §§
20 287(d) AND 287A of the Code; or

21 (iii) For the illegal storage or concealment of a controlled dangerous
22 substance in sufficient quantity to reasonably indicate under all the circumstances an
23 intent to manufacture, distribute, or dispense:

24 1. A controlled dangerous substance; or

25 2. Controlled paraphernalia, as defined in Article 27, [§]
26 287(d)] §§ 287(D) AND 287A of the Code.

27 (5) "Property" includes a mobile home.

28 (6) (i) "Tenant" means the lessee or a person occupying property,
29 whether or not a party to a lease.

30 (ii) "Tenant" includes a lessee or a person occupying a mobile home,
31 whether or not a party to a lease.

32 (iii) "Tenant" does not include a mobile home owner who leases or
33 rents a site for residential use and resides in a mobile home park.

34 (b) An action under § 4-401 of the Courts Article to abate a nuisance may be
35 brought by:

36 (1) The State's Attorney of the county in which the nuisance is located;

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1 (2) The county attorney or solicitor of the county in which the nuisance is
2 located; or

3 (3) A community association within whose boundaries the nuisance is
4 located.

5 (c) (1) An action may not be brought under this section concerning a
6 commercial property until 45 days after the tenant, if any, and owner of record receive
7 notice from a person entitled to bring an action under this section that a nuisance exists.

8 (2) The notice shall specify:

9 (i) The date and time of day the nuisance was first discovered; and

10 (ii) The location on the property where the nuisance is allegedly
11 occurring.

12 (3) The notice shall be:

13 (i) Hand delivered to the tenant, if any, and the owner of record; or

14 (ii) Sent by certified mail to the tenant, if any, and the owner of
15 record.

16 (d) (1) In addition to any service of process required by the Maryland Rules, the
17 plaintiff shall cause to be posted in a conspicuous place on the property within 48 hours
18 of filing the complaint the notice required under paragraph (2) of this subsection.

19 (2) The notice shall indicate:

20 (i) The nature of the proceedings;

21 (ii) The time and place of the hearing; and

22 (iii) The name and telephone number of the person to contact for
23 additional information.

24 (e) The court may issue an injunction or order other equitable relief whether or
25 not an adequate remedy exists at law.

26 (f) (1) Notwithstanding any other provision of law, and in addition to or as a
27 component of any remedy ordered under subsection (e) of this section, the court, after a
28 hearing, [may order a tenant with knowledge of the existence of the nuisance to vacate
29 the property within 72 hours] MAY:

30 (I) ORDER A TENANT WHO HAS KNOWLEDGE OF THE EXISTENCE
31 OF THE NUISANCE, OR WHO REASONABLY SHOULD HAVE KNOWN OF THE
32 EXISTENCE OF THE NUISANCE, TO VACATE THE PROPERTY WITHIN 72 HOURS;

33 (II) ORDER AN OWNER-OCCUPANT WHO HAS KNOWLEDGE OF THE
34 EXISTENCE OF THE NUISANCE, OR WHO REASONABLY SHOULD HAVE KNOWN OF
35 THE EXISTENCE OF THE NUISANCE, TO ABATE THE NUISANCE;

36 (III) ORDER, WHERE AN OWNER-OCCUPANT FAILS TO COMPLY
37 WITH AN ORDER TO ABATE THE NUISANCE:

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1 1. THAT ALL OCCUPANTS VACATE THE PROPERTY WITHIN
2 72 HOURS FOR A PERIOD NOT TO EXCEED 1 YEAR;

3 2. THAT THE PROPERTY REMAIN VACANT; AND

4 3. THAT THE OWNER MAINTAIN THE PROPERTY AT ALL
5 TIMES WHILE VACANT IN A CLEAN AND SANITARY CONDITION AND SECURE
6 AGAINST ENTRY; OR

7 (IV) ORDER A TENANT OR OWNER-OCCUPANT OF A COMMERCIAL
8 PROPERTY WHO HAS KNOWLEDGE OF THE EXISTENCE OF THE NUISANCE, OR WHO
9 REASONABLY SHOULD HAVE KNOWN OF THE EXISTENCE OF THE NUISANCE, TO:

10 1. VACATE THE PROPERTY WITHIN 72 HOURS FOR A PERIOD
11 NOT TO EXCEED 1 YEAR;

12 2. KEEP THE PROPERTY VACANT FOR THE LIFE OF THE
13 COURT'S ORDER; AND

14 3. MAINTAIN THE PROPERTY AT ALL TIMES WHILE VACANT
15 IN A CLEAN AND SANITARY CONDITION AND SECURED AGAINST ENTRY.

16 (2) [The] IF A TENANT IS ORDERED BY THE COURT TO VACATE THE
17 PROPERTY WITHIN 72 HOURS AND FAILS TO DO SO, THE court, after a hearing, may
18 grant a judgment of restitution or the possession of the property to the owner if:

19 (i) The owner and lessee are parties to the action; and

20 (ii) A tenant has failed to obey an order under subsection(e) of this
21 section or paragraph (1) of this subsection.

22 (3) If the court orders restitution of the possession of the property under
23 paragraph (2) of this subsection, the court shall immediately issue its warrant to the
24 sheriff or constable commanding execution of the warrant within 5 days after issuance of
25 the warrant.

26 (4) The court may order the owner of the property to submit for court
27 approval a plan of correction to ensure, to the extent reasonably possible, that the
28 property will not again be used for a nuisance if:

29 (i) The owner is a party to the action; and

30 (ii) The owner knew OR REASONABLY SHOULD HAVE KNOWN of the
31 existence of the nuisance.

32 (g) Except as provided in subsection (f) (1) and (4) of this section, the court may
33 order appropriate relief under subsections (e) and (f) of this section without proof that a
34 defendant knew of the existence of the nuisance.

35 (h) In any action brought under this section:

36 (1) Evidence of the general reputation of the property is admissible to
37 corroborate testimony based on personal knowledge or observation, or evidence seized

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1 during the execution of a search and seizure warrant, but shall not, in and of itself, be
2 sufficient to establish the existence of a nuisance under this section; and

3 (2) Evidence that the nuisance had been discontinued at the time of the
4 filing of the complaint or at the time of the hearing does not bar the imposition of
5 appropriate relief by the court under subsections (e) and (f) of this section.

6 (i) The court [may] SHALL award court costs and reasonable attorney's fees to a
7 community association that is the prevailing plaintiff in an action brought under this
8 section.

9 (j) An action under this section shall be heard within 14 days after service of
10 process on the parties.

11 (k) This section does not abrogate any equitable or legal right or remedy under
12 existing law to abate a nuisance.

13 (l) (1) An appeal from a judgment or order under this section shall be filed
14 within 10 days after the date of the order or judgment.

15 (2) (i) [Upon motion of either party, the circuit court shall set a date for
16 the hearing of the appeal, which shall be not less than 5 or more than 15 days after the
17 date the motion is filed] AN APPEAL FROM A JUDGMENT OR ORDER UNDER THIS
18 SECTION SHALL BE EXPEDITED.

19 (ii) [Notice of the order for a hearing shall be served on the opposite
20 party or the party's attorney at least 20 days before the hearing] UPON REQUEST FOR
21 ORAL ARGUMENT BY EITHER PARTY, THE CIRCUIT COURT SHALL HEAR ORAL
22 ARGUMENT WITHIN 7 DAYS AFTER THE FILING OF THE APPELLEE'S RESPONSE.

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