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1997 Regular Session
71r0433

By: Prince George's County Delegation
Introduced and read first time: January 29, 1997
Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Nuisance Abatement and Local Code Enforcement -**
3 **Community Associations - Enforcement Authority**
4 **PG 423-97**

5 FOR the purpose of allowing qualifying community associations to bring certain actions
6 in the circuit court against qualifying nuisances, based on certain code violations,
7 within Prince George's County; requiring certain notices; requiring that a procedure
8 under this Act be expedited in certain manners; providing that 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 14-124
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1996 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 14-124.

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 IS LOCATED
25 EXCLUSIVELY IN AN UNINCORPORATED PART OF THE COUNTY AND:

26 (I) IS COMPRISED OF AT LEAST 25% OF ADULT RESIDENTS OF A
27 LOCAL COMMUNITY CONSISTING OF 40 OR MORE INDIVIDUAL, CONTIGUOUS
28 HOUSEHOLDS AS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN THE BYLAWS
29 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 PRIMARILY 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) IN THE CASE OF A MARYLAND CORPORATION, IS IN GOOD
10 STANDING.

11 (3) "LOCAL CODE VIOLATION" MEANS A VIOLATION UNDER THE
12 FOLLOWING PROVISIONS OF THE PRINCE GEORGE'S COUNTY CODE AS AMENDED
13 FROM TIME TO TIME OR UNDER ANY APPLICABLE CODE RELATING TO THE
14 FOLLOWING PROVISIONS INCORPORATED INTO THE PRINCE GEORGE'S COUNTY
15 CODE BY REFERENCE:

16 (I) ANIMAL CONTROL REGULATIONS (§ 3-131 ET SEQ.) AND OTHER
17 RULES, REGULATIONS, AND STANDARDS (§ 3-175 ET SEQ.) UNDER SUBTITLE 3;

18 (II) BUILDING CODE UNDER SUBTITLE 4, DIVISION 1;

19 (III) FIRE PREVENTION CODE UNDER SUBTITLE 11, DIVISION 4;

20 (IV) PEST CONTROL PROVISIONS UNDER SUBTITLE 12, DIVISION 5;

21 (V) HOUSING CODE, PROPERTY STANDARDS AND MAINTENANCE,
22 AND ANTLITTER AND WEED ORDINANCE, UNDER SUBTITLE 13, DIVISIONS 1, 7, AND
23 9, RESPECTIVELY;

24 (VI) SEWAGE DISPOSAL NUISANCES UNDER SUBTITLE 22, DIVISION
25 3, SUBDIVISION 3; AND

26 (VII) ABANDONED VEHICLES UNDER SUBTITLE 26, DIVISION 14.

27 (4) "NUISANCE" MEANS, WITHIN THE BOUNDARIES OF THE COMMUNITY
28 REPRESENTED BY THE COMMUNITY ASSOCIATION, AN ACT OR CONDITION
29 KNOWINGLY CREATED, PERFORMED, OR MAINTAINED ON PRIVATE PROPERTY
30 THAT CONSTITUTES A LOCAL CODE VIOLATION AND THAT:

31 (I) SIGNIFICANTLY AFFECTS OTHER RESIDENTS OF THE
32 NEIGHBORHOOD;

33 (II) NEGATIVELY IMPACTS THE VALUE OF NEIGHBORING
34 PROPERTY; AND

35 (III) 1. IS INJURIOUS TO PUBLIC HEALTH, SAFETY, OR WELFARE
36 OF NEIGHBORING RESIDENTS; OR

1 2. OBSTRUCTS THE REASONABLE USE OF OTHER PROPERTY
2 IN THE NEIGHBORHOOD.

3 (B) THIS SECTION ONLY APPLIES TO A NUISANCE LOCATED WITHIN THE
4 BOUNDARIES OF PRINCE GEORGE'S COUNTY.

5 (C) (1) A COMMUNITY ASSOCIATION MAY SEEK INJUNCTIVE AND OTHER
6 EQUITABLE RELIEF IN THE CIRCUIT COURT FOR ABATEMENT OF A NUISANCE UPON
7 SHOWING:

8 (I) THE NOTICE REQUIREMENTS UNDER PARAGRAPHS (2) AND (3)
9 OF THIS SUBSECTION HAVE BEEN SATISFIED; AND

10 (II) THE NUISANCE HAS NOT BEEN ABATED.

11 (2) (I) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION
12 BASED ON A NUISANCE UNTIL 60 DAYS AFTER THE COMMUNITY ASSOCIATION GIVES
13 NOTICE OF THE VIOLATION AND OF THE COMMUNITY ASSOCIATION'S INTENT TO
14 BRING AN ACTION UNDER THIS SECTION BY CERTIFIED MAIL, RETURN RECEIPT
15 REQUESTED, TO THE APPLICABLE LOCAL ENFORCEMENT AGENCY.

16 (II) AN ACTION UNDER THIS SECTION MAY NOT BE BROUGHT IF
17 THE APPLICABLE CODE ENFORCEMENT AGENCY HAS FILED AN ACTION FOR
18 EQUITABLE RELIEF FROM THE NUISANCE.

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

23 (II) THE NOTICE SHALL SPECIFY:

24 1. THE NATURE OF THE ALLEGED NUISANCE;

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

27 3. THE LOCATION ON THE PROPERTY WHERE THE
28 NUISANCE IS ALLEGEDLY OCCURRING; AND

29 4. THE RELIEF SOUGHT.

30 (III) THE NOTICE SHALL BE PROVIDED TO THE TENANT, IF ANY,
31 AND THE OWNER OF RECORD IN THE SAME MANNER AS SERVICE OF PROCESS IN A
32 CIVIL IN PERSONAM ACTION UNDER THE MARYLAND RULES.

33 (IV) IN FILING A SUIT UNDER THIS SECTION, AN OFFICER OF THE
34 COMMUNITY ASSOCIATION SHALL CERTIFY TO THE COURT:

35 1. WHAT STEPS THE COMMUNITY ASSOCIATION HAS TAKEN
36 TO SATISFY THE NOTICE REQUIREMENTS UNDER THIS SUBSECTION; AND

37 2. THAT EACH CONDITION PRECEDENT TO THE FILING OF
38 AN ACTION UNDER THIS SECTION HAS BEEN MET.

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1 (4) A PROCEEDING UNDER THIS SECTION SHALL:

2 (I) TAKE PRECEDENCE ON THE DOCKET;

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

4 (III) BE EXPEDITED IN EVERY WAY.

5 (D) A POLITICAL SUBDIVISION OF THE STATE OR ANY AGENCY OF A
6 POLITICAL SUBDIVISION MAY NOT BE SUBJECT TO ANY ACTION BROUGHT UNDER
7 THIS SECTION OR AN ACTION RESULTING FROM AN ACTION BROUGHT UNDER THIS
8 SECTION AGAINST A PRIVATE PROPERTY OWNER.

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

12 (2) THIS SECTION MAY NOT BE CONSTRUED AS GRANTING STANDING
13 FOR AN ACTION:

14 (I) CHALLENGING ANY ZONING APPLICATION OR APPROVAL;

15 (II) IN WHICH THE ALLEGED NUISANCE CONSISTS OF:

16 1. A CONDITION RELATING TO LEAD PAINT; OR

17 2. AN INTERIOR PHYSICAL DEFECT OF A PROPERTY;

18 (III) INVOLVING ANY VIOLATION OF ALCOHOLIC BEVERAGES LAWS
19 UNDER ARTICLE 2B OF THE CODE; OR

20 (IV) INVOLVING ANY MATTER IN WHICH A CERTIFICATE, LICENSE,
21 PERMIT, OR REGISTRATION IS REQUIRED OR ALLOWED UNDER THE ENVIRONMENT
22 ARTICLE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 1997.