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

Introduced and read first time: January 30, 1997

Assigned to: Commerce and Government Matters

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 altering the definition of community association in order to
5 authorize a community association in Baltimore City to bring an action seeking
6 abatement of qualifying nuisances, based on specified code violations; altering the
7 definition of nuisance; modifying and eliminating certain notice requirements;
8 modifying a provision limiting construction of the law as it relates to interior defects
9 of property; making stylistic changes; and generally relating to the authority of a
10 community association to seek judicial relief pertaining to certain nuisances in
11 Baltimore City.

12 BY repealing and reenacting, with amendments,
13 Article - Real Property
14 Section 14-123
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 14-123.

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

22 [(2) "Community association" means a Maryland nonprofit association,
23 corporation, or other organization that:

24 (i) Is comprised of at least 25% of adult residents of a local
25 community consisting of 40 or more individual households as defined by specific
26 geographic boundaries in the bylaws or charter of the association;

27 (ii) Requires, as a condition of membership, the voluntary payment of
28 monetary dues at least annually;

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1 (iii) Is operated primarily for the promotion of social welfare and
2 general neighborhood improvement and enhancement;

3 (iv) Has been in existence for at least 2 years when it files suit under
4 this section;

5 (v) 1. Is exempt from taxation under § 501(c)(3) or (4) of the
6 Internal Revenue Code; or

7 2. Has been included for a period of at least 2 years prior to
8 bringing an action under this section in Baltimore City's Community Association
9 Directory published by the Baltimore City Department of Planning; and

10 (vi) In the case of a Maryland corporation, is in good standing.]

11 (2) "COMMUNITY ASSOCIATION" MEANS:

12 (I) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER
13 ORGANIZATION THAT IS:

14 1. COMPRISED OF RESIDENTS OF A COMMUNITY WITHIN
15 WHICH A NUISANCE IS LOCATED;

16 2. OPERATED EXCLUSIVELY FOR THE PROMOTION OF
17 SOCIAL WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND
18 ENHANCEMENT; AND

19 3. EXEMPT FROM TAXATION UNDER § 501 (C) (3) OR (4) OF
20 THE INTERNAL REVENUE CODE; OR

21 (II) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER
22 ORGANIZATION THAT IS:

23 1. COMPRISED OF RESIDENTS OF A CONTIGUOUS
24 COMMUNITY THAT IS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES, WITHIN
25 WHICH A NUISANCE IS LOCATED; AND

26 2. OPERATED FOR THE PROMOTION OF THE WELFARE,
27 IMPROVEMENT, AND ENHANCEMENT OF THAT COMMUNITY.

28 (3) "Local code violation" means a violation under the following provisions
29 of the Baltimore City Code as amended from time to time or under any applicable code
30 relating to the following provisions incorporated by Baltimore City by reference:

31 (i) The Fire Prevention Code under Article 9;

32 (ii) Animal control, nuisance and disease prevention, and noise
33 control subheadings of Article 11 (Health);

34 (iii) The Housing Code under Article 13;

35 (iv) Public nuisance provisions under Article 19;

36 (v) Article 23 (SANITATION);

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1 (vi) The Building Code of Baltimore City, Article 32; and

2 (vii) The zoning ordinance of Baltimore City, Article 30.

3 (4) "Nuisance" means, within the boundaries of the community represented
4 by the community association, an act or condition [knowingly] created, performed, or
5 maintained on private property that constitutes a local code violation and that:

6 (i) Significantly affects other residents of the neighborhood; AND

7 (ii) [Diminishes the value of neighboring property; and

8 (iii)] 1. Is injurious to public health, safety, or welfare of neighboring
9 residents; or

10 2. Obstructs the reasonable use of other property in the
11 [neighborhood] COMMUNITY.

12 (b) This section only applies to a nuisance located within the boundaries of
13 Baltimore City.

14 (c) (1) A community association may seek injunctive and other equitable relief
15 in the circuit court for abatement of a nuisance upon showing:

16 (i) The notice requirements of this subsection have been satisfied; and

17 (ii) The nuisance has not been abated.

18 (2) (i) An action may not be brought under this section [based on a
19 nuisance] until 60 days after the community association gives notice of the violation and
20 of the community association's intent to bring an action under this section by certified
21 mail, return receipt requested, to the applicable local enforcement agency.

22 (ii) An action under this section may not be brought if the applicable
23 code enforcement agency has filed an action for equitable relief from the nuisance.

24 (3) (i) An action may not be brought under this section until 60 days after
25 the tenant, if any, and owner of record receive notice BY CERTIFIED MAIL, RETURN
26 RECEIPT REQUESTED, from the community association that a nuisance exists and that
27 legal action may be taken if the nuisance is not abated.

28 (ii) The notice shall specify:

29 1. The nature of the alleged nuisance;

30 2. [The date and time of day the nuisance was first discovered;

31 3.] The location on the property where the nuisance is allegedly
32 occurring; and

33 [4.] 3. The relief sought [in the action].

34 (iii) [The notice shall be provided to the tenant, if any, and the owner
35 of record in the same manner as service of process in a civil in personam action under the
36 Maryland Rules.

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1 (iv)] In filing a suit under this section, an officer of the community
2 association shall certify to the court:

3 1. What steps the community association has taken to satisfy
4 the notice requirements under this subsection; and

5 2. That each condition precedent to the filing of an action
6 under this section has been met.

7 (4) Relief may not be provided under this section unless the community
8 association files with the court a bond in an amount determined by the court and with a
9 surety approved by the court, conditioned to answer to the adverse party for any costs the
10 party may sustain as a result of the suit, including reasonable attorney fees, if the court
11 finds that the action was filed in bad faith or without substantial justification.

12 (5) (i) [An action may not be brought against an owner of residential
13 rental property unless, prior to the giving of notice under subsection (c)(3)(i) of this
14 section, a notice of violation relating to the nuisance has first been issued by an
15 appropriate code enforcement agency.

16 (ii) In the case of a nuisance based on a housing or building code
17 violation, other than a recurrent sanitation violation, relief may not be granted under this
18 section unless a violation notice relating to the nuisance has been issued by the
19 Department of Housing and Community Development and remains outstanding after a
20 period of 75 days.

21 (6) (i) If a violation notice is [an essential element of the action] ISSUED
22 BY THE APPROPRIATE ENFORCEMENT AGENCY, a copy of the notice signed by an
23 official of the [Department of Housing and Community Development] AGENCY shall be
24 prima facie evidence of the facts contained in the notice.

25 (ii) A notice of abatement issued by the [Department of Housing and
26 Community Development] ENFORCEMENT AGENCY in regard to the violation notice
27 shall be prima facie evidence that the plaintiff is not entitled to the relief requested.

28 [(7)] (6) a proceeding under this section shall:

29 (i) Take precedence on the docket;

30 (ii) Be heard at the earliest practicable date; and

31 (iii) Be expedited in every way.

32 (d) A political subdivision of the State or any agency of a political subdivision may
33 not be subject to any action brought under this section or an action resulting from an
34 action brought under this section against a private property owner.

35 (e) (1) Subject to paragraph (2) of this subsection, this section may not be
36 construed as to abrogate any equitable or legal right or remedy otherwise available under
37 the law to abate a nuisance.

38 (2) This section may not be construed as to grant standing for an action:

39 (i) Challenging any zoning application or approval;

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1 (ii) In which the alleged nuisance consists of:

2 1. A condition relating to lead paint;

3 2. An interior physical defect of a property, EXCEPT IN
4 SITUATIONS THAT PRESENT A THREAT TO NEIGHBORING PROPERTIES; OR

5 3. A vacant dwelling that is maintained in a boarded condition,
6 free from trash and debris, and secure against trespassers and weather entry;

7 (iii) Involving any violation of alcoholic beverages laws under Article
8 2B of the Code; or

9 (iv) Involving any matter in which a certificate, license, permit, or
10 registration is required or allowed under the Environment Article.

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