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Introduced and read first time: January 30, 1997

Assigned to: Commerce and Government Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 1997

CHAPTER ____

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

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- 1 (i) The Fire Prevention Code under Article 9;
- 2 (ii) Animal control, nuisance and disease prevention, and noise
3 control subheadings of Article 11 (Health);
- 4 (iii) The Housing Code under Article 13;
- 5 (iv) Public nuisance provisions under Article 19;
- 6 (v) Article 23 (SANITATION);
- 7 (vi) The Building Code of Baltimore City, Article 32; and
- 8 (vii) The zoning ordinance of Baltimore City, Article 30.

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

- 12 (i) Significantly affects other residents of the neighborhood; ~~AND~~
- 13 (ii) ~~Diminishes the value of neighboring property; and~~
- 14 (iii) ~~1. Is injurious to public health, safety, or welfare of neighboring~~
15 residents; or
- 16 2. Obstructs the reasonable use of other property in the
17 ~~neighborhood~~ ~~COMMUNITY~~.

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

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

- 22 (i) The notice requirements of this subsection have been satisfied; and
- 23 (ii) The nuisance has not been abated.

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

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

30 (3) (i) An action may not be brought under this section until 60 days after
31 the tenant, if any, and owner of record receive notice, BY CERTIFIED MAIL, RETURN
32 RECEIPT REQUESTED, THAT IS IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS
33 PARAGRAPH, from the community association that a nuisance exists and that legal action
34 may be taken if the nuisance is not abated.

35 (ii) The notice shall specify:

36 1. The nature of the alleged nuisance;

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

2 (iii) Be expedited in every way.

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

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

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

10 (i) Challenging any zoning application or approval;

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

12 1. A condition relating to lead paint;

13 2. An interior physical defect of a property, EXCEPT IN
14 SITUATIONS THAT PRESENT A DIRECT THREAT TO NEIGHBORING THE HEALTH AND
15 SAFETY OF OCCUPANTS OR PROPERTIES IMMEDIATELY ADJACENT TO THE
16 PROPERTY WHERE A NUISANCE IS ALLEGEDLY OCCURRING; OR

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

19 (iii) Involving any violation of alcoholic beverages laws under Article
20 2B of the Code; or

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

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