
By: Delegates Dewberry, Malone, McIntosh, Rosenberg, Ports, Finifter, Morhaim, Dypski, Mohorovic, and Parker

Introduced and read first time: January 31, 1997

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County - Nuisance Abatement and Local Code Enforcement - Community**
3 **Associations - Enforcement Authority**

4 FOR the purpose of allowing qualifying community associations to bring certain actions
5 in the circuit court against qualifying nuisances, based on certain code violations,
6 within Baltimore County; requiring certain notices; requiring the filing of a bond for
7 certain purposes; requiring that a proceeding under this Act be expedited in certain
8 manners; providing that a political subdivision may not be subject to certain actions;
9 providing for and limiting the construction of this Act; defining certain terms; and
10 generally relating to the right of community associations to seek judicial abatement
11 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:

25 (I) IS COMPRISED OF AT LEAST 25% OF ADULT RESIDENTS OF A
26 LOCAL COMMUNITY CONSISTING OF 40 OR MORE INDIVIDUAL HOUSEHOLDS AS
27 DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN THE BYLAWS OR CHARTER OF
28 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 BALTIMORE COUNTY CODE AS AMENDED FROM
13 TIME TO TIME OR UNDER ANY APPLICABLE CODE RELATING TO THE FOLLOWING
14 PROVISIONS INCORPORATED INTO THE BALTIMORE COUNTY CODE BY REFERENCE:

15 (I) ANIMAL CONTROL PROVISIONS UNDER TITLE 6;

16 (II) BUILDING AND BUILDING CODE REGULATIONS UNDER TITLE
17 7;

18 (III) FIRE PREVENTION CODE UNDER TITLE 16, ARTICLE II;

19 (IV) LIVABILITY CODE UNDER TITLE 18, ARTICLE III;

20 (V) NUISANCES AND OTHER VIOLATIONS UNDER TITLE 22;

21 (VI) ZONING REGULATIONS ADOPTED UNDER TITLE 26, ARTICLE
22 IV; AND

23 (VII) SOLID WASTE PROVISIONS UNDER TITLE 32.

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

28 (I) SIGNIFICANTLY AFFECTS OTHER RESIDENTS OF THE
29 NEIGHBORHOOD;

30 (II) NEGATIVELY IMPACTS THE VALUE OF NEIGHBORING
31 PROPERTY; AND

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

34 2. OBSTRUCTS THE REASONABLE USE OF OTHER PROPERTY
35 IN THE NEIGHBORHOOD.

36 (B) THIS SECTION ONLY APPLIES TO A NUISANCE LOCATED WITHIN THE
37 BOUNDARIES OF BALTIMORE COUNTY.

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1 (C) (1) A COMMUNITY ASSOCIATION MAY SEEK INJUNCTIVE AND OTHER
2 EQUITABLE RELIEF IN THE CIRCUIT COURT FOR BALTIMORE COUNTY FOR
3 ABATEMENT OF A NUISANCE UPON SHOWING THAT:

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

6 (II) THE NUISANCE HAS NOT BEEN ABATED.

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

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

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

19 (II) THE NOTICE SHALL SPECIFY:

- 20 1. THE NATURE OF THE ALLEGED NUISANCE;
- 21 2. THE DATE AND TIME OF DAY THE NUISANCE WAS FIRST
22 DISCOVERED;
- 23 3. THE LOCATION ON THE PROPERTY WHERE THE
24 NUISANCE IS ALLEGEDLY OCCURRING; AND
- 25 4. THE RELIEF SOUGHT.

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

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

- 31 1. WHAT STEPS THE COMMUNITY ASSOCIATION HAS TAKEN
32 TO SATISFY THE NOTICE REQUIREMENTS UNDER THIS SUBSECTION; AND
- 33 2. THAT EACH CONDITION PRECEDENT TO THE FILING OF
34 AN ACTION UNDER THIS SECTION HAS BEEN MET.

35 (4) RELIEF MAY NOT BE PROVIDED UNDER THIS SECTION UNLESS THE
36 COMMUNITY ASSOCIATION FILES WITH THE COURT A BOND IN AN AMOUNT
37 DETERMINED BY THE COURT AND WITH A SURETY APPROVED BY THE COURT,
38 CONDITIONED TO ANSWER TO THE ADVERSE PARTY FOR ANY COSTS THE PARTY
39 MAY SUSTAIN AS A RESULT OF THE SUIT, INCLUDING REASONABLE ATTORNEY

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1 FEES, IF THE COURT FINDS THAT THE ACTION WAS FILED IN BAD FAITH OR
2 WITHOUT SUBSTANTIAL JUSTIFICATION.

3 (5) A PROCEEDING UNDER THIS SECTION SHALL:

4 (I) TAKE PRECEDENCE ON THE DOCKET;

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

6 (III) BE EXPEDITED IN EVERY WAY.

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

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

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

16 (I) CHALLENGING ANY ZONING APPLICATION OR APPROVAL;

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

18 1. A CONDITION RELATING TO LEAD PAINT; OR

19 2. AN INTERIOR PHYSICAL DEFECT OF A PROPERTY;

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

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

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