
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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 1997

CHAPTER ____

1 AN ACT concerning

2 **Baltimore County - Nuisance Abatement and Local Code Enforcement - Community**
3 **Associations - Enforcement Authority Standing to Seek Judicial Relief**

4 FOR the purpose of allowing ~~qualifying certain~~ community associations to bring certain
5 actions in the circuit court ~~against qualifying for Baltimore County for relief from~~
6 ~~certain~~ nuisances, ~~based on certain code violations,~~ located within Baltimore County
7 ~~under certain circumstances;~~ requiring certain notices ~~to the County code~~
8 ~~enforcement agency and to certain tenants and property owners under certain~~
9 ~~circumstances;~~ requiring the filing of a bond for certain purposes ~~court to make~~
10 ~~certain determinations concerning a bond under certain circumstances;~~ requiring
11 ~~that a proceeding under this Act be expedited in certain manners;~~ providing that a
12 political subdivision may not be subject to certain actions; providing for and limiting
13 the construction of this Act; defining certain terms; and generally relating to the
14 right of community associations to seek judicial relief for nuisance abatement ~~of~~
15 ~~certain nuisances in Baltimore County.~~

16 BY adding to

17 Article - Real Property

18 Section 14-124

19 Annotated Code of Maryland

20 (1996 Replacement Volume and 1996 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

22 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Real Property**

2 14-124.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "COMMUNITY ASSOCIATION" MEANS A MARYLAND NONPROFIT
6 ~~ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION~~ THAT:

7 (I) IS COMPRISED OF AT LEAST ~~25% OF ADULT RESIDENTS~~ 20% OF
8 THE TOTAL NUMBER OF HOUSEHOLDS AS MEMBERS, WITH A MINIMUM
9 MEMBERSHIP OF 25 HOUSEHOLDS, OF A LOCAL COMMUNITY ~~CONSISTING THAT~~
10 CONSISTS OF 40 OR MORE INDIVIDUAL HOUSEHOLDS AS DEFINED BY SPECIFIC
11 GEOGRAPHIC BOUNDARIES IN THE BYLAWS OR CHARTER OF THE COMMUNITY
12 ASSOCIATION;

13 (II) REQUIRES, AS A CONDITION OF MEMBERSHIP, THE
14 ~~VOLUNTARY~~ PAYMENT OF MONETARY DUES AT LEAST ANNUALLY;

15 (III) IS OPERATED PRIMARILY FOR THE PROMOTION OF SOCIAL
16 WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND ENHANCEMENT;

17 (IV) HAS BEEN IN EXISTENCE FOR AT LEAST ~~2 YEARS~~ 1 YEAR WHEN
18 IT FILES SUIT UNDER THIS SECTION;

19 (V) 1. IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF
20 THE INTERNAL REVENUE CODE; ~~AND OR~~

21 2. HAS BEEN INCLUDED FOR A PERIOD OF AT LEAST 1 YEAR
22 PRIOR TO BRINGING AN ACTION UNDER THIS SECTION IN THE "DIRECTORY OF
23 ORGANIZATIONS IN BALTIMORE COUNTY" THAT IS PUBLISHED BY THE BALTIMORE
24 COUNTY PUBLIC LIBRARY; AND

25 (VI) ~~IN THE CASE OF A MARYLAND CORPORATION,~~ IS IN GOOD
26 STANDING.

27 (3) "LOCAL CODE VIOLATION" MEANS A VIOLATION UNDER ~~THE~~
28 ~~FOLLOWING PROVISIONS OF THE BALTIMORE COUNTY CODE AS AMENDED FROM~~
29 ~~TIME TO TIME OR UNDER ANY APPLICABLE CODE RELATING TO THE FOLLOWING~~
30 ~~PROVISIONS INCORPORATED INTO THE BALTIMORE COUNTY CODE BY REFERENCE:~~

31 ~~(I) ANIMAL CONTROL PROVISIONS UNDER TITLE 6;~~

32 ~~(II) BUILDING AND BUILDING CODE REGULATIONS UNDER TITLE~~

33 ~~7;~~

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

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

36 ~~(V) NUISANCES AND OTHER VIOLATIONS UNDER TITLE 22;~~

37 ~~(VI) ZONING REGULATIONS ADOPTED UNDER TITLE 26, ARTICLE~~

38 ~~IV; AND~~

1 ~~(VII) SOLID WASTE PROVISIONS UNDER TITLE 32~~ TITLE 22.
2 "NUISANCES" OF THE BALTIMORE COUNTY CODE 1988.

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

7 (I) ~~SIGNIFICANTLY AFFECTS~~ NEGATIVELY IMPACTS THE
8 WELL-BEING OF OTHER RESIDENTS OF THE NEIGHBORHOOD; AND

9 ~~(II) NEGATIVELY IMPACTS THE VALUE OF NEIGHBORING~~
10 ~~PROPERTY; AND~~

11 ~~(III)~~ (II) 1. IS INJURIOUS TO PUBLIC HEALTH, SAFETY, OR
12 WELFARE OF NEIGHBORING RESIDENTS; OR

13 2. OBSTRUCTS THE REASONABLE USE OF OTHER PROPERTY
14 IN THE NEIGHBORHOOD.

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

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

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

22 (II) THE NUISANCE HAS NOT BEEN ABATED.

23 (2) (I) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION
24 BASED ON A NUISANCE UNTIL 60 DAYS AFTER THE COMMUNITY ASSOCIATION GIVES
25 NOTICE OF THE VIOLATION AND OF THE COMMUNITY ASSOCIATION'S INTENT TO
26 BRING AN ACTION UNDER THIS SECTION BY CERTIFIED MAIL, RETURN RECEIPT
27 REQUESTED, TO THE ~~APPLICABLE LOCAL~~ COUNTY CODE ENFORCEMENT AGENCY.

28 (II) AN ACTION UNDER THIS SECTION MAY NOT BE BROUGHT IF
29 THE ~~APPLICABLE~~ COUNTY CODE ENFORCEMENT AGENCY HAS FILED AN ACTION
30 FOR EQUITABLE RELIEF FROM THE NUISANCE.

31 (3) (I) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION
32 UNTIL 60 DAYS AFTER THE TENANT, IF ANY, AND OWNER OF RECORD RECEIVE
33 NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, FROM THE
34 COMMUNITY ASSOCIATION THAT A NUISANCE EXISTS AND THAT LEGAL ACTION
35 MAY BE TAKEN IF THE NUISANCE IS NOT ABATED.

36 (II) THE NOTICE SHALL SPECIFY:

37 1. THE NATURE OF THE ALLEGED NUISANCE;

38 2. THE DATE AND TIME OF DAY THE NUISANCE WAS FIRST
39 ~~DISCOVERED~~ DOCUMENTED;

4

1 3. THE LOCATION ON THE PROPERTY WHERE THE
2 NUISANCE IS ALLEGEDLY OCCURRING; AND

3 4. THE RELIEF SOUGHT.

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

7 ~~(IV)~~ (III) IN FILING A SUIT UNDER THIS SECTION, AN OFFICER OF
8 THE COMMUNITY ASSOCIATION SHALL CERTIFY TO THE COURT:

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

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

13 ~~(4) RELIEF MAY NOT BE PROVIDED UNDER THIS SECTION UNLESS THE~~
14 ~~COMMUNITY ASSOCIATION FILES WITH THE COURT A BOND IN AN AMOUNT~~
15 ~~DETERMINED BY THE COURT AND WITH A SURETY APPROVED BY THE COURT,~~
16 ~~CONDITIONED TO ANSWER TO THE ADVERSE PARTY FOR ANY COSTS THE PARTY~~
17 ~~MAY SUSTAIN AS A RESULT OF THE SUIT, INCLUDING REASONABLE ATTORNEY~~
18 ~~FEES, IF THE COURT FINDS THAT THE ACTION WAS FILED IN BAD FAITH OR~~
19 ~~WITHOUT SUBSTANTIAL JUSTIFICATION.~~

20 (4) THE COURT SHALL DETERMINE IN WHAT AMOUNT AND UNDER
21 WHAT CONDITIONS, IF ANY, A BOND SHALL BE FILED BY A COMMUNITY
22 ASSOCIATION IN AN ACTION FOR RELIEF UNDER THIS SECTION.

23 ~~(5) A PROCEEDING UNDER THIS SECTION SHALL:~~

24 ~~(I) TAKE PRECEDENCE ON THE DOCKET;~~

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

26 ~~(III) BE EXPEDITED IN EVERY WAY.~~

27 (D) A POLITICAL SUBDIVISION OF THE STATE OR ANY AGENCY OF A
28 POLITICAL SUBDIVISION IS NOT SUBJECT TO ANY ACTION BROUGHT UNDER THIS
29 SECTION OR AN ACTION RESULTING FROM AN ACTION BROUGHT UNDER THIS
30 SECTION AGAINST A PRIVATE PROPERTY OWNER.

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

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

36 (I) CHALLENGING ANY ZONING, DEVELOPMENT, SPECIAL
37 EXCEPTION, OR VARIANCE APPLICATION OR APPROVAL;

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

5

1 1. A CONDITION RELATING TO LEAD PAINT; ~~OR~~

2 2. AN INTERIOR PHYSICAL DEFECT OF A PROPERTY;
3 EXCEPT IN SITUATIONS THAT PRESENT A THREAT TO NEIGHBORING PROPERTIES;
4 OR

5 3. A VACANT DWELLING THAT IS MAINTAINED IN A
6 BOARDED CONDITION, FREE FROM TRASH AND DEBRIS, AND SECURE AGAINST
7 TRESPASSERS AND WEATHER ENTRY;

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

10 (IV) INVOLVING ANY MATTER IN WHICH A CERTIFICATE, LICENSE,
11 PERMIT, OR REGISTRATION IS REQUIRED OR ALLOWED UNDER THE ENVIRONMENT
12 ARTICLE.

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