

CF 7r0096

By: Senators Sfikas, McFadden, Hughes, Blount, Young, Conway, Kelley, and Della

Introduced and read first time: January 22, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City - Civil Violations - Citation**

3 FOR the purpose of authorizing Special Enforcement Officers in Baltimore City to issue
4 civil citations to enforce any ordinances that establish civil monetary penalties and
5 equitable remedies for certain violations of law pertaining to Baltimore City;
6 establishing procedures for service of civil citations; requiring certain information to
7 be contained in a citation; authorizing the issuance of a summons; requiring the
8 payment of a fine or satisfaction of equitable remedies under certain circumstances;
9 providing for the abatement of a violation; providing for the collection of fines or
10 penalties by Baltimore City; establishing certain procedures and rights of certain
11 defendants in certain civil violation proceedings; authorizing certain persons to
12 represent Baltimore City in certain actions; and generally relating to the
13 establishment of civil citation requirements and penalties by Baltimore City.

14 BY adding to

15 The Public Local Laws of Baltimore City
16 Section 16-16A(g) through (p)
17 Article 4 - Public Local Laws of Maryland
18 (1979 Edition and 1991 and 1993 Supplements, as amended)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article 4 - Baltimore City**

22 16-16A.

23 (G) A SPECIAL ENFORCEMENT OFFICER MAY ISSUE AND SERVE A CIVIL
24 CITATION THAT CONSTITUTES A COMPLAINT AND A SUMMONS FOR A VIOLATION OF
25 ANY CODES ENUMERATED UNDER SUBSECTION (A) OF THIS SECTION THAT, BY
26 ORDINANCE, ARE SUBJECT TO CIVIL PENALTIES OR EQUITABLE REMEDIES.

27 (H) A CIVIL CITATION SHALL BE SERVED ON THE DEFENDANT:

28 (1) IN ACCORDANCE WITH MARYLAND RULE 3-121; OR

29 (2) FOR VIOLATIONS RELATED TO REAL PROPERTY, IF PROOF IS MADE
30 BY AFFIDAVIT THAT A GOOD FAITH EFFORT TO SERVE THE DEFENDANT BY

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1 PERSONAL DELIVERY OR BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED HAS
2 NOT SUCCEEDED OR THAT THE DEFENDANT HAS ATTEMPTED TO EVADE SERVICE
3 BY FAILING TO REGISTER AS REQUIRED BY THE BALTIMORE CITY CODE, BY:

4 (I) REGULAR MAIL TO THE DEFENDANT'S LAST KNOWN ADDRESS;
5 AND

6 (II) 1. IF THE LAST KNOWN ADDRESS OF THE DEFENDANT IN
7 THE STATE IS NOT A POST OFFICE BOX:

8 A. DELIVERY TO AN ADULT AT THE LAST KNOWN ADDRESS
9 OF THE DEFENDANT; OR

10 B. POSTING AT THE LAST KNOWN ADDRESS OF THE
11 DEFENDANT; OR

12 2. IF THE LAST KNOWN ADDRESS OF THE DEFENDANT IS
13 OUTSIDE OF THE STATE OR IS A POST OFFICE BOX, POSTING THE CITATION AT THE
14 PROPERTY WHERE THE VIOLATION OCCURRED.

15 (I) FOR THE PURPOSES OF SERVICE OF A CIVIL CITATION AS PROVIDED
16 UNDER SUBSECTION (H) OF THIS SECTION:

17 (1) THE ADDRESS PROVIDED IN THE RENTAL PROPERTY
18 REGISTRATION RECORDS OF BALTIMORE CITY MAY BE USED AS THE LAST KNOWN
19 ADDRESS OF A DEFENDANT WHO IS AN ABSENTEE OWNER OF RESIDENTIAL REAL
20 PROPERTY; OR

21 (2) THE MAIL-TO ADDRESS PROVIDED IN THE REAL PROPERTY TAX
22 RECORDS OF BALTIMORE CITY MAY BE USED AS THE LAST KNOWN ADDRESS OF A
23 DEFENDANT WHO:

24 (I) IS AN ABSENTEE OWNER OF RESIDENTIAL REAL PROPERTY;
25 AND

26 (II) HAS FAILED TO REGISTER IN THE RENTAL PROPERTY
27 REGISTRATION RECORDS OF BALTIMORE CITY.

28 (J) (1) THE CIVIL CITATION SHALL CONTAIN:

29 (I) THE ENFORCEMENT OFFICER'S CERTIFICATION ATTESTING TO
30 THE TRUTH OF THE MATTER SET FORTH IN THE CITATION;

31 (II) THE NAME AND ADDRESS OF THE PERSON CHARGED;

32 (III) THE NATURE OF THE VIOLATION AND CITATION OF THE
33 SPECIFIC SECTION OF LAW THAT IS VIOLATED;

34 (IV) THE LOCATION, DATE, AND TIME THE VIOLATION WAS
35 OBSERVED;

36 (V) THE AMOUNT OF THE CIVIL FINE ASSESSED;

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1 (VI) THE MANNER, LOCATION, AND TIME IN WHICH THE FINE MAY
2 BE PAID TO THE CITY;

3 (VII) THE NATURE OF EQUITABLE RELIEF REQUESTED, IF
4 APPLICABLE;

5 (VIII) NOTICE OF THE RIGHT OF THE PERSON TO ELECT TO STAND
6 TRIAL FOR THE VIOLATION AND TO CONTEST THE CITY'S CLAIM TO THE
7 REQUESTED RELIEF;

8 (IX) NOTICE OF THE EFFECT OF FAILING TO PAY THE ASSESSED
9 FINE OR APPEAR FOR TRIAL AT THE PRESCRIBED TIME; AND

10 (X) NOTICE OF THE RIGHT OF THE PERSON TO REQUEST THE
11 PRESENCE OF THE ISSUING ENFORCEMENT OFFICER AT TRIAL.

12 (2) IF A CITATION IS ISSUED FOR A VIOLATION ARISING FROM THE
13 CONDITION OF REAL PROPERTY OWNED BY THE DEFENDANT, THE CITATION MAY
14 INCLUDE A COUNT DEMANDING JUDGMENT FOR OUTSTANDING MUNICIPAL LIENS
15 AGAINST THE PROPERTY IF THE PROPERTY IS:

16 (I) A VACANT LOT; OR

17 (II) A STRUCTURE THAT IS VACANT AND UNFIT FOR HABITATION.

18 (K) (1) (I) THE CIVIL CITATION MAY CONTAIN A SUMMONS IN A FORM
19 APPROVED BY THE DISTRICT COURT.

20 (II) EXCEPT WHERE THE CIVIL CITATION CONTAINS A DEMAND
21 FOR INJUNCTIVE OR OTHER EQUITABLE RELIEF OR A DEMAND FOR JUDGMENT IN
22 THE AMOUNT OF OUTSTANDING MUNICIPAL LIENS AGAINST PROPERTY THAT IS THE
23 SUBJECT OF THE CITATION, THE SUMMONS SHALL SPECIFY THAT THE DEFENDANT
24 IS NOT REQUIRED TO APPEAR IN DISTRICT COURT IF THE FINE IS PAID AS PROVIDED
25 IN THE CITATION.

26 (III) AN ENFORCEMENT OFFICER SHALL COORDINATE THE
27 SELECTION OF COURT DATES WITH THE APPROPRIATE DISTRICT COURT OFFICIALS.

28 (2) IF THE DEFENDANT FAILS TO PAY THE FINE WITH A PREPAYMENT
29 OPTION AS PROVIDED IN THE CITATION AND FAILS TO APPEAR IN DISTRICT COURT
30 AS PROVIDED IN THE SUMMONS:

31 (I) THE CITY MAY DOUBLE THE FINE TO AN AMOUNT NOT TO
32 EXCEED \$1,000; AND

33 (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF A
34 PROPER MOTION FOR JUDGMENT HAS BEEN MADE, THE COURT MAY:

35 1. ENTER JUDGMENT AGAINST THE DEFENDANT IN THE
36 AMOUNT OF THE FINE THEN DUE;

37 2. ENTER AN ORDER GRANTING EQUITABLE RELIEF FROM
38 THE VIOLATION AS REQUESTED BY THE CITY; OR

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1 3. ENTER JUDGMENT FOR THE CITY IN THE AMOUNT OF
2 THE OUTSTANDING MUNICIPAL LIENS AGAINST THE PROPERTY THAT IS THE
3 SUBJECT OF THE CITATION.

4 (L) IF A DEFENDANT IS FOUND BY THE DISTRICT COURT TO HAVE
5 COMMITTED A VIOLATION THAT IS SUBJECT TO CIVIL PENALTY:

6 (1) (I) THE COURT SHALL ORDER THE DEFENDANT TO PAY THE FINE
7 THEN DUE;

8 (II) THE FINES IMPOSED SHALL CONSTITUTE A JUDGMENT IN
9 FAVOR OF THE MAYOR AND CITY COUNCIL; AND

10 (III) IF THE FINE REMAINS UNPAID FOR 30 DAYS FOLLOWING THE
11 DATE OF ITS ENTRY, THE JUDGMENT SHALL BE ENFORCEABLE IN THE SAME
12 MANNER AND TO THE SAME EXTENT AS OTHER CIVIL JUDGMENTS FOR MONEY
13 UNLESS THE COURT HAS SUSPENDED OR DEFERRED THE PAYMENT OF THE FINE AS
14 PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION;

15 (2) THE COURT MAY SUSPEND OR DEFER THE PAYMENT OF ANY FINE
16 UNDER CONDITIONS THAT THE COURT SETS;

17 (3) THE DEFENDANT MAY BE LIABLE FOR THE COSTS OF THE
18 PROCEEDINGS IN THE COURT;

19 (4) THE COURT MAY ORDER THE DEFENDANT TO ABATE THE
20 VIOLATION OR GRANT OTHER EQUITABLE RELIEF REQUESTED BY THE CITY,
21 INCLUDING ENTRY OF AN ORDER PERMITTING THE CITY TO FOLLOW SPECIFIC
22 ACTIONS DESCRIBED IN THE ORDER TO ABATE ANY VIOLATION AT THE EXPENSE OF
23 THE DEFENDANT; AND

24 (5) IF THE DEFENDANT FAILS TO COMPLY WITH ANY ORDER OF THE
25 COURT, THE COURT MAY HOLD THE DEFENDANT IN CONTEMPT UNDER MARYLAND
26 RULE P4 AND MAY ENFORCE THE ORDER UNDER MARYLAND RULE 3-648.

27 (M) (1) IF THE CITY ABATES A VIOLATION PURSUANT TO AN ORDER OF THE
28 DISTRICT COURT, THE CITY SHALL PRESENT THE DEFENDANT WITH A BILL FOR THE
29 COST OF ABATEMENT BY:

30 (I) REGULAR MAIL TO THE DEFENDANT'S LAST KNOWN ADDRESS;
31 OR

32 (II) ANY OTHER MEANS THAT ARE REASONABLY CALCULATED TO
33 BRING THE BILL TO THE DEFENDANT'S ATTENTION.

34 (2) IF THE DEFENDANT DOES NOT PAY THE BILL WITHIN 30 DAYS AFTER
35 PRESENTMENT, THE CITY MAY FILE A MOTION WITH THE DISTRICT COURT FOR
36 ENTRY OF A JUDGMENT AGAINST THE DEFENDANT FOR THE COST OF THE
37 ABATEMENT.

38 (N) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF A
39 DEFENDANT FAILS TO PAY ANY FINE OR COST IMPOSED BY THE DISTRICT COURT IN

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1 AN ACTION FOR A VIOLATION SUBJECT TO CIVIL PENALTIES, THE DISTRICT COURT
2 MAY PUNISH THE FAILURE AS CONTEMPT OF COURT.

3 (2) A MONEY JUDGMENT FOR MUNICIPAL LIENS OR ABATEMENT OR
4 ENFORCEMENT EXPENSES MAY NOT BE ENFORCED BY CONTEMPT.

5 (O) IN ANY PROCEEDING FOR A VIOLATION SUBJECT TO CIVIL PENALTIES:

6 (1) THE DISTRICT COURT SHALL APPLY THE EVIDENTIARY STANDARDS
7 AS PRESCRIBED BY LAW OR RULE FOR THE TRIAL OF CIVIL CAUSES;

8 (2) THE DISTRICT COURT SHALL ENSURE THAT THE DEFENDANT HAS
9 RECEIVED A COPY OF THE CITATION AND THAT THE DEFENDANT UNDERSTANDS
10 THE ALLEGATIONS CONTAINED IN THE CITATION;

11 (3) IF A DEFENDANT HAS NOT REQUESTED THE PRESENCE OF THE
12 ISSUING ENFORCEMENT OFFICER, AND THE ISSUING OFFICER IS NOT PRESENT, A
13 CIVIL CITATION SWORN TO OR AFFIRMED BY THE OFFICER SHALL BE CONSIDERED
14 PRIMA FACIE EVIDENCE OF THE FACTS CONTAINED IN THE CIVIL CITATION; AND

15 (4) THE DEFENDANT MAY ADMIT OR DENY A VIOLATION, AND THE
16 COURT SHALL ENTER JUDGMENT FOR THE DEFENDANT OR THE CITY.

17 (P) THE STATE'S ATTORNEY, THE CITY SOLICITOR, OR ANY ATTORNEY
18 DESIGNATED BY THE CITY IS AUTHORIZED TO REPRESENT THE CITY IN ENFORCING
19 A CIVIL CITATION.

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