Unofficial Copy N1

28 WHICH A NUISANCE IS LOCATED:

1998 Regular Session 8lr1069

By: Senators Sfikas, Kelley, McFadden, Hughes, and Conway Introduced and read first time: February 6, 1998 Assigned to: Judicial Proceedings A BILL ENTITLED 1 AN ACT concerning 2 Baltimore City - Nuisance Abatement and Local Code Enforcement -3 **Community Associations** 4 FOR the purpose of altering certain definitions under certain provisions of law 5 relating to standing of certain community associations in Baltimore City to seek 6 judicial relief for abatement of certain nuisances; altering certain notice 7 requirements; altering certain requirements for standing to commence an 8 action; altering the construction of certain provisions of law; making certain stylistic changes; and generally relating to abatement of certain nuisances in 9 10 Baltimore City. 11 BY repealing and reenacting, with amendments, 12 Article - Real Property Section 14-123 13 14 Annotated Code of Maryland 15 (1996 Replacement Volume and 1997 Supplement) 16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 17 MARYLAND, That the Laws of Maryland read as follows: 18 **Article - Real Property** 19 14-123. In this section the following words have the meanings indicated. 20 (a) (1) 21 "Community association" means [a Maryland nonprofit association, 22 corporation, or other organization that]: 23 [Is comprised of at least 25% of adult residents of a local 24 community consisting of 40 or more individual households as defined by specific geographic boundaries in the bylaws or charter of the association;] A MARYLAND 26 NONPROFIT CORPORATION THAT IS: COMPRISED OF RESIDENTS OF A COMMUNITY WITHIN

	SOCIAL WELFARE AN ENHANCEMENT; ANI			OPERATED EXCLUSIVELY FOR THE PROMOTION OF NEIGHBORHOOD IMPROVEMENT AND
4 5	INTERNAL REVENUE	CODE;		EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE
6 7	(II ORGANIZATION THA		A NONP	ROFIT ASSOCIATION, CORPORATION, OR OTHER
	COMMUNITY THAT IS WHICH A NUISANCE	S DEFI	NED BY	COMPRISED OF RESIDENTS OF A CONTIGUOUS SPECIFIC GEOGRAPHIC BOUNDARIES, WITHIN
11 12	IMPROVEMENT, ANI	2 D ENHA		OPERATED FOR THE PROMOTION OF THE WELFARE, ENT OF THAT COMMUNITY; AND
15		ERIOD (, AS PU	INCLUDED IN BALTIMORE CITY'S COMMUNITY BLISHED BY THE BALTIMORE CITY DEPARTMENT OF LEAST 2 YEARS PRIOR TO BRINGING AN ACTION
17 18	[(i of monetary dues at leas			, as a condition of membership, the voluntary payment
19 20	(ii general neighborhood in			ed primarily for the promotion of social welfare and enhancement;
21 22	under this section; (iv	v) H	Has been	in existence for at least 2 years when it files suit
23 24	(v Internal Revenue Code;	,		Is exempt from taxation under § 501(c)(3) or (4) of the
			ction in 1	Has been included for a period of at least 2 years prior to Baltimore City's Community Association ity Department of Planning; and
28	(v	i) I	n the cas	se of a Maryland corporation, is in good standing.]
31	provisions of the Baltim	ore City	Code a	tion" means a violation under the following s amended from time to time or under any provisions incorporated by Baltimore City by
33	(i)) T	The Fire	Prevention Code under Article 9;
34 35	(ii control subheadings of A			ontrol, nuisance and disease prevention, and noise h);
36	(ii	i) T	The Hous	sing Code under Article 13;

1		(iv)	Public nuisance provisions under Article 19;
2		(v)	Article 23;
3		(vi)	The Building Code of Baltimore City, Article 32; and
4		(vii)	The zoning ordinance of Baltimore City, Article 30.
7		mmunity	ce" means, within the boundaries of the community association, an act or condition [knowingly] created, rivate property that constitutes a local code violation
9		(i)	Significantly affects [other] residents of the neighborhood;
10		(ii)	[Diminishes the value of neighboring property; and
11 12	neighboring residents	(iii)] s; or	1. Is injurious to public health, safety, or welfare of
13 14	[neighborhood] COM	1MUNIT	2. Obstructs the reasonable use of other property in the Y.
15 16		tion only	applies to a nuisance located within the boundaries of
10	Baltimore City.		
17	(c) (1)		nunity association may seek injunctive and other equitable patement of a nuisance upon showing:
17 18 19	(c) (1)		
17 18 19	(c) (1) relief in the circuit co	ourt for al	patement of a nuisance upon showing:
17 18 19 20 21 22 23 24	(c) (1) relief in the circuit co and (2) nuisance] until 60 da and of the community	ourt for all (i) (ii) (i) ys after the description of the second of	Datement of a nuisance upon showing: The notice requirements of this subsection have been satisfied;
17 18 19 20 21 22 23 24 25 26 27	(c) (1) relief in the circuit co and (2) nuisance] until 60 da and of the communit certified mail, return	(i) (ii) (i) (ys after the sassociate receipt	The notice requirements of this subsection have been satisfied; The nuisance has not been abated. An action may not be brought under this section [based on a ne community association gives notice of the violation tion's intent to bring an action under this section by
17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	(c) (1) relief in the circuit co and (2) nuisance] until 60 da and of the communit certified mail, return applicable code enfor nuisance. (3) after the tenant, if an RETURN RECEIPT	(i) (ii) (ii) (ys after the yassociate receipt receipt receipt receipt action (ii) (ii) (ii) (iii) (iii) (iii) (iii) (iii) (iii) (iii) (iii) (iiii) (iiii) (iiii) (iiiiiiii	The notice requirements of this subsection have been satisfied; The nuisance has not been abated. An action may not be brought under this section [based on a ne community association gives notice of the violation tion's intent to bring an action under this section by equested, to the applicable local enforcement agency. An action under this section may not be brought if the
17 18 19 20 21 22 23 24 25 26 27 28 29 30 31	(c) (1) relief in the circuit co and (2) nuisance] until 60 da and of the communit certified mail, return applicable code enfor nuisance. (3) after the tenant, if an RETURN RECEIPT	(i) (ii) (ii) (ys after the yassociate receipt receipt receipt receipt action (ii) (ii) (ii) (iii) (iii) (iii) (iii) (iii) (iii) (iii) (iii) (iiii) (iiii) (iiii) (iiiiiiii	The notice requirements of this subsection have been satisfied; The nuisance has not been abated. An action may not be brought under this section [based on a ne community association gives notice of the violation tion's intent to bring an action under this section by equested, to the applicable local enforcement agency. An action under this section may not be brought if the agency has filed an action for equitable relief from the An action may not be brought under this section until 60 days mer of record receive notice BY CERTIFIED MAIL, STED, from the community association that a nuisance

1 2 discovered;	2.	[The date and time of day the nuisance was first
3 4 allegedly occurring; and	3.]	The location on the property where the nuisance is
5	[4.]	3. The relief sought [in the action].
6 (iii) 7 owner of record in the same m 8 under the Maryland Rules.		otice shall be provided to the tenant, if any, and the service of process in a civil in personam action
9 (iv)] 10 association shall certify to the		g a suit under this section, an officer of the community
11 12 the notice requirements under	1. this sub	What steps the community association has taken to satisfy section; and
13 14 under this section has been m	2. et.	That each condition precedent to the filing of an action
16 association files with the cour17 a surety approved by the cour18 costs the party may sustain as	t a bond t, conditi a result	be provided under this section unless the community in an amount determined by the court and with ioned to answer to the adverse party for any of the suit, including reasonable attorney fees, led in bad faith or without substantial
23 section,] BASED UPON A V	to the giv	ion may not be brought against an owner of residential wing of notice under subsection (c)(3)(i) of this ON OF THE HOUSING OR BUILDING CODE, UNLESS a ance has first been issued by an appropriate
28 this section unless a violation	nt sanita notice re	case of a nuisance based on a housing or building code ation violation, relief may not be granted under elating to the nuisance has been issued by the ity Development and remains outstanding after
	cial of th E CODI	plation notice is an essential element of the action, a copy the [Department of Housing and Community E ENFORCEMENT AGENCY shall be prima facie notice.
	t] APPRo shall be p	ce of abatement issued by the [Department of Housing OPRIATE CODE ENFORCEMENT AGENCY in prima facie evidence that the plaintiff is not

1		(7)	A proce	eding under this section shall:			
2			(i)	Take precedence on the docket;			
3			(ii)	Be heard at the earliest practicable date; and			
4			(iii)	Be expedited in every way.			
	may not be su	abject to	any actio	vision of the State or any agency of a political subdivision on brought under this section or an action resulting his section against a private property owner.			
	8 (e) (1) Subject to paragraph (2) of this subsection, this section may not be 9 construed as to abrogate any equitable or legal right or remedy otherwise available 10 under the law to abate a nuisance.						
11		(2)	This sec	tion may not be construed as to grant standing for an action:			
12			(i)	Challenging any zoning application or approval;			
13			(ii)	In which the alleged nuisance consists of:			
14				1. A condition relating to lead paint;			
15 16	SITUATION	NS THAT	Γ PRESE	2. An interior physical defect of a property, EXCEPT FOR NT A THREAT TO NEIGHBORING PROPERTIES; OR			
	condition, freentry;	ee from t	trash and	3. A vacant dwelling that is maintained in a boarded debris, and secure against trespassers and weather			
20 21	2B of the Co	ode; or	(iii)	Involving any violation of alcoholic beverages laws under Article			
22 23	registration i	s require	(iv) ed or allo	Involving any matter in which a certificate, license, permit, or wed under the Environment Article.			
24 25	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1998.						