

HOUSE BILL 387

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1999 Regular Session
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CF 9lr0544

By: ~~Delegates Dypski, Hammen, and Krysiak~~ Krysiak, Branch, Burns, Cole,
Doory, A. Jones, V. Jones, Kirk, Marriott, McHale, McIntosh, Montague,
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Introduced and read first time: February 8, 1999
Assigned to: Economic Matters
Reassigned: Commerce and Government Matters, February 12, 1999

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 16, 1999

CHAPTER _____

1 AN ACT concerning

2 **Real Property - Nuisance Abatement and Local Code Enforcement -**
3 **Community Associations**

4 FOR the purpose of altering the definition of "community association" under certain
5 provisions of law relating to standing of certain community associations in
6 Baltimore City to seek judicial relief for abatement of certain nuisances; altering
7 certain notice provisions; altering the unit authorized to provide a copy of a
8 certain notice; making stylistic changes; and generally relating to abatement of
9 certain nuisances in Baltimore City.

10 BY repealing and reenacting, without amendments,
11 Article - Real Property
12 Section 14-123(a)(1)
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 1998 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article - Real Property
17 Section 14-123(a)(2) and (c)
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1998 Supplement)

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

1

Article - Real Property

2 14-123.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Community association" means a Maryland nonprofit association,
5 corporation, or other organization that:6 (i) Is comprised of at least [25% of adult residents] 25
7 HOUSEHOLDS OR 25% OF THE HOUSEHOLDS, WHICHEVER IS LESS, of a local
8 [community] NEIGHBORHOOD consisting of 40 or more individual households as
9 defined by specific geographic boundaries in the bylaws or charter of the association;10 (ii) Requires, as a condition of membership, the voluntary payment
11 of monetary dues at least annually;12 (iii) Is operated primarily for the promotion of social welfare and
13 general neighborhood improvement and enhancement;14 (iv) Has been in existence for at least 2 years when it files suit
15 under this section;16 (v) 1. Is exempt from taxation under § 501(c)(3) or (4) of the
17 Internal Revenue Code; or18 2. Has been included for a period of at least 2 years prior to
19 bringing an action under this section in Baltimore City's Community Association
20 Directory published by the Baltimore City Department of Planning; and

21 (vi) In the case of a Maryland corporation, is in good standing.

22 (c) (1) A community association may seek injunctive and other equitable
23 relief in the circuit court for abatement of a nuisance upon showing:24 (i) The notice requirements of this subsection have been satisfied;
25 and

26 (ii) The nuisance has not been abated.

27 (2) (i) An action may not be brought under this section [based on a
28 nuisance] until 60 days after the community association [gives]SENDS notice of the
29 violation and of the community association's intent to bring an action under this
30 section by certified mail, return receipt requested, to the [applicable local]
31 APPROPRIATE CODE enforcement agency.32 (ii) An action under this section may not be brought if the
33 [applicable] APPROPRIATE code enforcement agency has filed an action for equitable
34 relief from the nuisance.

1 (3) (i) An action may not be brought under this section until 60 days
2 after THE COMMUNITY ASSOCIATION SENDS NOTICE TO the tenant, if any, and THE
3 owner of record [receive notice from the community association] that a nuisance
4 exists and that legal action may be taken if the nuisance is not abated.

5 (ii) The notice shall specify:

- 6 1. The nature of the alleged nuisance;
- 7 2. The date and time of day the nuisance was first
8 discovered;
- 9 3. The location on the property where the nuisance is
10 allegedly occurring; and
- 11 4. The relief sought in the action.

12 (iii) 1. The notice shall be provided to the tenant, if any, and the
13 owner of record in the same manner as service of process in a civil in personam action
14 under the Maryland Rules.

15 2. ADEQUATE AND SUFFICIENT NOTICE MAY BE GIVEN TO
16 THE TENANT, IF ANY, AND THE OWNER OF RECORD BY SENDING A COPY OF THE
17 NOTICE BY REGULAR MAIL AND POSTING A COPY OF THE NOTICE ON THE PROPERTY
18 WHERE THE NUISANCE IS ALLEGEDLY OCCURRING, IF NOTICE SENT BY CERTIFIED
19 MAIL IS:

20 A. RETURNED UNCLAIMED OR REFUSED;

21 B. DESIGNATED BY THE POST OFFICE TO BE
22 UNDELIVERABLE FOR ANY OTHER REASON; OR

23 C. SIGNED FOR BY A PERSON OTHER THAN THE ADDRESSEE.

24 (iv) In filing a suit under this section, an officer of the community
25 association shall certify to the court:

26 1. What steps the community association has taken to satisfy
27 the notice requirements under this subsection; and

28 2. That each condition precedent to the filing of an action
29 under this section has been met.

30 (4) Relief may not be provided under this section unless the community
31 association files with the court a bond in an amount determined by the court and with
32 a surety approved by the court, conditioned to answer to the adverse party for any
33 costs the party may sustain as a result of the suit, including reasonable attorney fees,
34 if the court finds that the action was filed in bad faith or without substantial
35 justification.

1 (5) (i) An action may not be brought against an owner of residential
2 rental property unless, prior to the giving of notice under subsection (c)(3)(i) of this
3 section, a notice of violation relating to the nuisance has first been issued by an
4 appropriate code enforcement agency.

5 (ii) In the case of a nuisance based on a housing or building code
6 violation, other than a recurrent sanitation violation, relief may not be granted under
7 this section unless a violation notice relating to the nuisance has been issued by the
8 Department of Housing and Community Development and remains outstanding after
9 a period of 75 days.

10 (6) (i) If a violation notice is an essential element of the action, a copy
11 of the notice signed by an official of the [Department of Housing and Community
12 Development] APPROPRIATE CODE ENFORCEMENT AGENCY shall be prima facie
13 evidence of the facts contained in the notice.

14 (ii) A notice of abatement issued by the [Department of Housing
15 and Community Development] APPROPRIATE CODE ENFORCEMENT AGENCY in
16 regard to the violation notice shall be prima facie evidence that the plaintiff is not
17 entitled to the relief requested.

18 (7) A proceeding under this section shall:

19 (i) Take precedence on the docket;

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

21 (iii) Be expedited in every way.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1999.