

SENATE BILL 522

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1999 Regular Session
9lr0544
CF 9lr0932

By: **Senators Sfikas, McFadden, Hughes, and Kelley**
Introduced and read first time: February 5, 1999
Assigned to: Judicial Proceedings

A BILL ENTITLED

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:

22 **Article - Real Property**

23 14-123.

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

25 (2) "Community association" means a Maryland nonprofit association,
26 corporation, or other organization that:

- 1 (i) Is comprised of at least [25% of adult residents] 25
2 HOUSEHOLDS of a local [community] NEIGHBORHOOD consisting of 40 or more
3 individual households as defined by specific geographic boundaries in the bylaws or
4 charter of the association;
- 5 (ii) Requires, as a condition of membership, the voluntary payment
6 of monetary dues at least annually;
- 7 (iii) Is operated primarily for the promotion of social welfare and
8 general neighborhood improvement and enhancement;
- 9 (iv) Has been in existence for at least 2 years when it files suit
10 under this section;
- 11 (v) 1. Is exempt from taxation under § 501(c)(3) or (4) of the
12 Internal Revenue Code; or
- 13 2. Has been included for a period of at least 2 years prior to
14 bringing an action under this section in Baltimore City's Community Association
15 Directory published by the Baltimore City Department of Planning; and
- 16 (vi) In the case of a Maryland corporation, is in good standing.
- 17 (c) (1) A community association may seek injunctive and other equitable
18 relief in the circuit court for abatement of a nuisance upon showing:
- 19 (i) The notice requirements of this subsection have been satisfied;
20 and
- 21 (ii) The nuisance has not been abated.
- 22 (2) (i) An action may not be brought under this section [based on a
23 nuisance] until 60 days after the community association [gives] SENDS notice of the
24 violation and of the community association's intent to bring an action under this
25 section by certified mail, return receipt requested, to the [applicable local]
26 APPROPRIATE CODE enforcement agency.
- 27 (ii) An action under this section may not be brought if the
28 [applicable] APPROPRIATE code enforcement agency has filed an action for equitable
29 relief from the nuisance.
- 30 (3) (i) An action may not be brought under this section until 60 days
31 after THE COMMUNITY ASSOCIATION SENDS NOTICE TO the tenant, if any, and THE
32 owner of record [receive notice from the community association] that a nuisance
33 exists and that legal action may be taken if the nuisance is not abated.
- 34 (ii) The notice shall specify:
- 35 1. The nature of the alleged nuisance;

1
2 discovered;

2. The date and time of day the nuisance was first

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4 allegedly occurring; and

3. The location on the property where the nuisance is

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4. The relief sought in the action.

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

9 2. ADEQUATE AND SUFFICIENT NOTICE MAY BE GIVEN TO
10 THE TENANT, IF ANY, AND THE OWNER OF RECORD BY SENDING A COPY OF THE
11 NOTICE BY REGULAR MAIL AND POSTING A COPY OF THE NOTICE ON THE PROPERTY
12 WHERE THE NUISANCE IS ALLEGEDLY OCCURRING, IF NOTICE SENT BY CERTIFIED
13 MAIL IS:

14 A. RETURNED UNCLAIMED OR REFUSED;

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

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

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

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

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

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

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

34 (ii) In the case of a nuisance based on a housing or building code
35 violation, other than a recurrent sanitation violation, relief may not be granted under
36 this section unless a violation notice relating to the nuisance has been issued by the

1 Department of Housing and Community Development and remains outstanding after
2 a period of 75 days.

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

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

11 (7) A proceeding under this section shall:

12 (i) Take precedence on the docket;

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

14 (iii) Be expedited in every way.

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