

SENATE BILL 717

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2000 Regular Session
0lr2271
CF 0lr2270

By: **Senator McFadden (Baltimore City Administration)**

Introduced and read first time: February 4, 2000

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Abatement of Nuisance - Controlled Dangerous Substances**

3 FOR the purpose of clarifying that under provisions of law that relate to nuisance
4 abatement, an "owner" includes an owner-occupant and a "tenant" does not
5 include the owner of the property; requiring a plaintiff who brings a certain
6 nuisance abatement action to post a certain notice in a conspicuous place on the
7 property on which the nuisance is located within a certain amount of time before
8 the hearing; authorizing the court, after a hearing, to order a tenant who knew
9 or should have known of the existence of certain nuisances to vacate the
10 property within a certain amount of time; clarifying that in certain nuisance
11 abatement actions the court may, after a hearing, grant a judgment of
12 restitution or the possession of rental property to the property owner if certain
13 conditions are met; clarifying that a court may order an owner of certain
14 property to submit for court approval a certain plan of correction in addition to
15 or as part of any injunction, restraining order, or other relief ordered by the
16 court; authorizing the court to impose certain additional sanctions if an owner
17 fails to comply with an order to abate a nuisance; authorizing the court to award
18 court costs and reasonable attorney's fees to a prevailing plaintiff in certain
19 nuisance abatement actions; requiring that certain requests for oral arguments
20 be filed within a certain amount of time; requiring that certain oral arguments
21 be heard within a certain amount of time; providing that certain provisions of
22 law are not applicable to certain nuisance abatement actions; repealing certain
23 expedited notice and appeal requirements; and generally relating to the
24 abatement of nuisances based on the manufacture, distribution, or storage of
25 controlled dangerous substances or controlled paraphernalia.

26 BY repealing and reenacting, with amendments,
27 Article - Real Property
28 Section 14-120
29 Annotated Code of Maryland
30 (1996 Replacement Volume and 1999 Supplement)

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

1 **Article - Real Property**

2 14-120.

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

4 (2) "Community association" means:

5 (i) A nonprofit association, corporation, or other organization that
6 is:

7 1. Comprised of residents of a community within which a
8 nuisance is located;

9 2. Operated exclusively for the promotion of social welfare
10 and general neighborhood improvement and enhancement; and

11 3. Exempt from taxation under § 501(c)(3) or (4) of the
12 Internal Revenue Code; or

13 (ii) A nonprofit association, corporation, or other organization that
14 is:

15 1. Comprised of residents of a contiguous community that is
16 defined by specific geographic boundaries, within which a nuisance is located; and

17 2. Operated for the promotion of the welfare, improvement
18 and enhancement of that community.

19 (3) "Controlled dangerous substances" has the meaning stated in Article
20 27, § 279(a) and (b) of the Code.

21 (4) "Nuisance" means a property that is used:

22 (i) By persons who assemble for the specific purpose of illegally
23 administering a controlled dangerous substance;

24 (ii) For the illegal manufacture, or distribution of:

25 1. A controlled dangerous substance; or

26 2. Controlled paraphernalia, as defined in Article 27, §
27 287(d) of the Code; or

28 (iii) For the illegal storage or concealment of a controlled dangerous
29 substance in sufficient quantity to reasonably indicate under all the circumstances an
30 intent to manufacture, distribute, or dispense:

31 1. A controlled dangerous substance; or

1 (d) (1) In addition to any service of process required by the Maryland Rules,
2 the plaintiff shall cause to be posted in a conspicuous place on the property [within]
3 NO LATER THAN 48 hours [of filing the complaint] BEFORE THE HEARING the notice
4 required under paragraph (2) of this subsection.

5 (2) The notice shall indicate:

6 (i) The nature of the proceedings;

7 (ii) The time and place of the hearing; and

8 (iii) The name and telephone number of the person to contact for
9 additional information.

10 (e) The court may issue an injunction or order other equitable relief whether
11 or not an adequate remedy exists at law.

12 (f) (1) Notwithstanding any other provision of law, and in addition to or as a
13 component of any remedy ordered under subsection (e) of this section, the court, after
14 a hearing, may order a tenant [with knowledge] WHO KNEW OR SHOULD HAVE
15 KNOWN of the existence of the nuisance to vacate the property within 72 hours.

16 (2) The court, after a hearing, may grant a judgment of restitution or the
17 possession of [the] RENTAL property to the owner if:

18 (i) The owner and [lessee] TENANT are parties to the action; and

19 (ii) A tenant has failed to obey an order under subsection (e) of this
20 section or paragraph (1) of this subsection.

21 (3) If the court orders restitution of the possession of the property under
22 paragraph (2) of this subsection, the court shall immediately issue its warrant to the
23 sheriff or constable commanding execution of the warrant within 5 days after
24 issuance of the warrant.

25 (4) [The] IN ADDITION TO OR AS A PART OF ANY INJUNCTION,
26 RESTRAINING ORDER, OR OTHER RELIEF ORDERED, THE court may order the owner of
27 the property to submit for court approval a plan of correction to ensure, to the extent
28 reasonably possible, that the property will not again be used for a nuisance if:

29 (i) The owner is a party to the action; and

30 (ii) The owner knew OR SHOULD HAVE KNOWN of the existence of
31 the nuisance.

32 (5) IF AN OWNER FAILS TO COMPLY WITH AN ORDER TO ABATE A
33 NUISANCE, AFTER A HEARING THE COURT MAY, IN ADDITION TO ANY OTHER RELIEF
34 GRANTED, ORDER:

35 (I) THAT ALL TENANTS VACATE THE PROPERTY;

1 (II) THAT THE PROPERTY REMAIN UNOCCUPIED, CLEAN, AND
2 SECURE AGAINST ENTRY DURING THE LIFE OF THE ORDER;

3 (III) THAT THE PROPERTY BE REHABILITATED TO COMPLY WITH
4 APPLICABLE BUILDING CODES AND ORDINANCES; OR

5 (IV) THAT THE PROPERTY BE DEMOLISHED IF THE ESTIMATED
6 COST OF REHABILITATION SIGNIFICANTLY EXCEEDS THE ESTIMATED MARKET
7 VALUE OF THE PROPERTY AFTER REHABILITATION.

8 (g) Except as provided in subsection (f) (1) and (4) of this section, the court
9 may order appropriate relief under subsections (e) and (f) of this section without proof
10 that a defendant knew of the existence of the nuisance.

11 (h) In any action brought under this section:

12 (1) Evidence of the general reputation of the property is admissible to
13 corroborate testimony based on personal knowledge or observation, or evidence seized
14 during the execution of a search and seizure warrant, but shall not, in and of itself, be
15 sufficient to establish the existence of a nuisance under this section; and

16 (2) Evidence that the nuisance had been discontinued at the time of the
17 filing of the complaint or at the time of the hearing does not bar the imposition of
18 appropriate relief by the court under subsections (e) and (f) of this section.

19 (i) The court may award court costs and reasonable attorney's fees to a
20 [community association that is the] prevailing plaintiff in an action brought under
21 this section.

22 (j) An action under this section shall be heard within 14 days after service of
23 process on the parties.

24 (k) This section does not abrogate any equitable or legal right or remedy under
25 existing law to abate a nuisance.

26 (l) (1) An appeal from a judgment or order under this section shall be filed
27 within 10 days after the date of the order or judgment.

28 [(2) (i) Upon motion of either party, the circuit court shall set a date for
29 the hearing of the appeal, which shall be not less than 5 or more than 15 days after
30 the date the motion is filed.

31 (ii) Notice of the order for a hearing shall be served on the opposite
32 party or the party's attorney at least 20 days before the hearing.]

33 (2) IF EITHER PARTY FILES A REQUEST FOR ORAL ARGUMENT, THE
34 COURT SHALL HEAR THE ORAL ARGUMENT WITHIN 7 DAYS AFTER THE REQUEST IS
35 FILED.

1 (3) (I) IF THE APPELLANT FILES A REQUEST FOR ORAL ARGUMENT,
2 THE REQUEST SHALL BE FILED AT THE TIME OF THE FILING OF THE APPEAL.

3 (II) IF THE APPELLEE FILES A REQUEST FOR ORAL ARGUMENT,
4 THE REQUEST SHALL BE FILED WITHIN 2 DAYS OF RECEIVING NOTICE OF THE
5 APPEAL.

6 (M) PROVISIONS OF THE REAL PROPERTY ARTICLE OR PUBLIC LOCAL LAWS
7 APPLICABLE TO ACTIONS BETWEEN A LANDLORD AND TENANT ARE NOT
8 APPLICABLE TO ACTIONS BROUGHT AGAINST A LANDLORD OR A TENANT UNDER
9 THIS SECTION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2000.