
By: **Delegates Montague, Cole, McIntosh, and Rosenberg**
Introduced and read first time: January 29, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Community Compensation for Community Impact Offenses Act**

3 FOR the purpose of authorizing a community association to bring an action for a
4 certain civil penalty and for certain fees and costs for certain criminal offenses
5 occurring within the boundaries of the community association; requiring a court
6 to consider certain factors in determining the amount of a penalty; requiring a
7 community association that is awarded a penalty to submit a certain plan;
8 specifying that a certain criminal prosecution is not required to maintain a
9 certain civil action; specifying that a certain civil action does not preclude a
10 criminal prosecution; prohibiting the admissibility of certain evidence in certain
11 criminal proceedings; establishing that the District Court has exclusive original
12 jurisdiction in a certain civil action under this Act; making certain findings and
13 declarations; stating a certain intent of the General Assembly; defining certain
14 terms; providing for the application of this Act; and generally relating to civil
15 liability to community associations for certain criminal activities occurring
16 within the boundaries of a community association.

17 BY adding to
18 Article - Courts and Judicial Proceedings
19 Section 3-1701 through 3-1704 to be under the new subtitle "Subtitle 17.
20 Community Compensation for Community Impact Offenses Act"; and
21 4-401(16)
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 2000 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Courts and Judicial Proceedings
26 Section 4-401(14) and (15)
27 Annotated Code of Maryland
28 (1998 Replacement Volume and 2000 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 SUBTITLE 17. COMMUNITY COMPENSATION FOR COMMUNITY IMPACT OFFENSES
3 ACT.

4 3-1701.

5 (A) IN THIS SUBTITLE THE FOLLOWING TERMS HAVE THE MEANINGS
6 INDICATED.

7 (B) "COMMUNITY ASSOCIATION" MEANS:

8 (1) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER
9 ORGANIZATION THAT IS:

10 (I) COMPRISED OF RESIDENTS OF A COMMUNITY;

11 (II) OPERATED EXCLUSIVELY FOR THE PROMOTION OF SOCIAL
12 WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND ENHANCEMENT; AND

13 (III) EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE
14 INTERNAL REVENUE CODE; OR

15 (2) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER
16 ORGANIZATION THAT IS:

17 (I) COMPRISED OF RESIDENTS OF A CONTIGUOUS COMMUNITY
18 THAT IS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES; AND

19 (II) OPERATED FOR THE PROMOTION OF THE WELFARE,
20 IMPROVEMENT, AND ENHANCEMENT OF THAT COMMUNITY.

21 (C) "COMMUNITY IMPACT OFFENSE" MEANS:

22 (1) A VIOLATION OF ARTICLE 27, § 15 OF THE CODE THAT DOES NOT
23 OCCUR IN A BUILDING;

24 (2) A VIOLATION OF ARTICLE 27, § 36B OF THE CODE THAT DOES NOT
25 OCCUR IN A BUILDING; OR

26 (3) A VIOLATION OF ARTICLE 27, § 287 OR § 287B OF THE CODE THAT DOES
27 NOT OCCUR IN A BUILDING.

28 3-1702.

29 (A) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

30 (1) CERTAIN CRIMINAL ACTIVITY, SPECIFICALLY THE PURCHASE AND
31 SALE OF DRUGS, THE CARRYING OF ILLEGAL FIREARMS, AND PROSTITUTION AS
32 THEY OCCUR WITHIN THE BOUNDARIES OF RESIDENTIAL COMMUNITIES, CAN
33 DIMINISH THE PROPERTY VALUES AND QUALITY OF LIFE IN THE COMMUNITIES,

1 DAMAGING THE RESIDENTS OF THE COMMUNITIES, THE BUSINESS AND PROPERTY
2 OWNERS IN THE COMMUNITIES, AND THE COMMUNITY ASSOCIATIONS THAT SERVE
3 THEM;

4 (2) THE RATE OF VIOLENT CRIME AND RESIDENTS' FEAR OF VIOLENT
5 CRIME RISE IN PROPORTION TO THE RATE OF THE CRIMINAL ACTIVITY DESCRIBED
6 IN ITEM (1) OF THIS SUBSECTION; AND

7 (3) THE CRIMINAL ACTIVITY DESCRIBED IN ITEM (1) OF THIS
8 SUBSECTION SHALL BE A CIVIL OFFENSE GIVING RISE TO LIABILITY TO COMMUNITY
9 ASSOCIATIONS.

10 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY TO:

11 (1) HOLD PERSONS WHO ENGAGE IN THE CRIMINAL ACTIVITY
12 DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION WITHIN THE BOUNDARIES OF A
13 RESIDENTIAL COMMUNITY FINANCIALLY LIABLE TO COMMUNITIES AS
14 REPRESENTED BY THEIR COMMUNITY ASSOCIATIONS; AND

15 (2) DETER PERSONS FROM ENGAGING IN THE CRIMINAL ACTIVITY
16 DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION.

17 3-1703.

18 (A) A PERSON WHO COMMITS A COMMUNITY IMPACT OFFENSE WITHIN THE
19 BOUNDARIES OF A COMMUNITY ASSOCIATION IS CIVILLY LIABLE TO THAT
20 COMMUNITY ASSOCIATION:

21 (1) IF THE DEFENDANT HAS NOT PREVIOUSLY BEEN FOUND LIABLE IN
22 AN ACTION BROUGHT UNDER THIS SUBTITLE, FOR A PENALTY OF NOT LESS THAN
23 \$5,000 AND NOT MORE THAN \$25,000; OR

24 (2) IF THE DEFENDANT HAS PREVIOUSLY BEEN FOUND LIABLE IN AN
25 ACTION BROUGHT UNDER THIS SUBTITLE, FOR A PENALTY OF NOT LESS THAN
26 \$10,000 AND NOT MORE THAN \$25,000.

27 (B) IN DETERMINING THE AMOUNT OF THE PENALTY, THE COURT SHALL
28 CONSIDER, AMONG OTHER RELEVANT FACTORS, THE FREQUENCY AND SEVERITY OF
29 THE COMMUNITY IMPACT OFFENSE, THE EXTENT OF HARM TO THE COMMUNITY,
30 AND THE RESOURCES OF THE DEFENDANT.

31 (C) ON AWARDING A CIVIL PENALTY TO A COMMUNITY ASSOCIATION, THE
32 COURT SHALL REQUIRE THE COMMUNITY ASSOCIATION TO SUBMIT A PLAN TO THE
33 COURT TO USE THE AWARD IN A MANNER CONSISTENT WITH THE PROMOTION OF
34 THE WELFARE, IMPROVEMENT, AND ENHANCEMENT OF THAT COMMUNITY.

35 (D) A COURT MAY AWARD COURT COSTS AND REASONABLE ATTORNEY'S FEES
36 TO A COMMUNITY ASSOCIATION THAT PREVAILS IN AN ACTION BROUGHT UNDER
37 THIS SUBTITLE.

1 3-1704.

2 (A) CRIMINAL PROSECUTION FOR AN OFFENSE UNDER ARTICLE 27, § 15, § 36B,
3 § 287, OR § 287B IS NOT REQUIRED TO MAINTAIN A CIVIL ACTION UNDER THIS
4 SUBTITLE.

5 (B) (1) A PROCEEDING UNDER THIS SUBTITLE DOES NOT PRECLUDE
6 CRIMINAL PROSECUTION.

7 (2) THE PAYMENT OF A CIVIL PENALTY UNDER THIS SUBTITLE IS NOT
8 ADMISSIBLE IN ANY CRIMINAL PROCEEDING AS AN ADMISSION OF GUILT OR AS
9 EVIDENCE OF GUILT.

10 4-401.

11 Except as provided in § 4-402 of this subtitle, and subject to the venue
12 provisions of Title 6 of this article, the District Court has exclusive original civil
13 jurisdiction in:

14 (14) A proceeding for a temporary peace order or peace order under Title
15 3, Subtitle 15 of this article; [and]

16 (15) A proceeding for condemnation and immediate possession of and title
17 to abandoned, blighted, and deteriorated property under authority granted in the
18 Code of Public Local Laws of a county, including Baltimore City, where the estimated
19 value of the property does not exceed \$25,000[.]; AND

20 (16) A PROCEEDING FOR ADJUDICATION OF A CIVIL PENALTY UNDER
21 TITLE 3, SUBTITLE 17 OF THIS ARTICLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
23 construed only prospectively and may not be applied or interpreted to have any effect
24 on or application to any offense occurring before the effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2001.