

SENATE BILL 587

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2001 Regular Session
(11r1212)

ENROLLED BILL

-- Judicial Proceedings/Commerce and Government Matters --

Introduced by **Senator Jimeno**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Anne Arundel County - Nuisance Abatement and Local Code Enforcement -**
3 **Enforcement Authority**

4 FOR the purpose of authorizing certain community associations, the State's Attorney
5 for Anne Arundel County, the County Attorney for Anne Arundel County, and the
6 City Attorney for the City of Annapolis to bring certain actions in the ~~circuit~~
7 ~~court District Court~~ for relief from certain nuisances, ~~based on certain code~~
8 ~~violations~~, within Anne Arundel County; requiring certain notices to the county
9 code enforcement agency and to certain tenants and property owners ~~under~~
10 ~~certain circumstances before a nuisance abatement action may be brought;~~
11 ~~requiring that a proceeding under this Act be expedited in a certain manner;~~
12 providing that a political subdivision may not be subject to certain actions;
13 providing for certain remedies; providing for the construction of this Act;
14 defining certain terms; and generally relating to the right of community
15 associations, the State's Attorney for Anne Arundel County, the County Attorney
16 for Anne Arundel County, and the City Attorney for the City of Annapolis to seek
17 judicial abatement of certain nuisances in Anne Arundel County.

1 BY repealing and reenacting, with amendments,
 2 Article - Courts and Judicial Proceedings
 3 Section 4-401(7)
 4 Annotated Code of Maryland
 5 (1998 Replacement Volume and 2000 Supplement)

6 BY adding to
 7 Article - Real Property
 8 Section ~~14-127~~ 14-125.1
 9 Annotated Code of Maryland
 10 (1996 Replacement Volume and 2000 Supplement)

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

13 **Article - Courts and Judicial Proceedings**

14 4-401.

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

18 (7) A petition of injunction filed by:

19 (i) A tenant in an action under § 8-211 of the Real Property Article
 20 or a local rent escrow law; or

21 (ii) A person who brings an action under § 14-120 OR § 14-125.1 of
 22 the Real Property Article;

23 **Article - Real Property**

24 ~~14-127~~ 14-125.1.

25 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 26 INDICATED.

27 (2) "COMMUNITY ASSOCIATION" MEANS A MARYLAND NONPROFIT
 28 ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT:

29 (I) IS COMPRISED OF AT LEAST 20% OF THE TOTAL NUMBER OF
 30 HOUSEHOLDS AS MEMBERS OF A LOCAL COMMUNITY THAT CONSISTS OF 40 OR MORE
 31 INDIVIDUAL HOUSEHOLDS AS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN
 32 THE BYLAWS OR CHARTER OF THE COMMUNITY ASSOCIATION;

33 (II) REQUIRES, AS A CONDITION OF MEMBERSHIP, THE PAYMENT
 34 OF MONETARY DUES AT LEAST ANNUALLY;

1 (III) IS OPERATED PRIMARILY FOR THE PROMOTION OF SOCIAL
2 WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND ENHANCEMENT;

3 (IV) HAS BEEN IN EXISTENCE FOR AT LEAST 1 YEAR WHEN IT FILES
4 SUIT UNDER THIS SECTION;

5 (V) IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE
6 INTERNAL REVENUE CODE; AND

7 (VI) IS IN GOOD STANDING.

8 (3) "LOCAL CODE VIOLATION" MEANS A VIOLATION UNDER THE
9 FOLLOWING PROVISIONS OF THE ANNE ARUNDEL COUNTY CODE, ~~AS AMENDED~~
10 ~~FROM TIME TO TIME~~, OR UNDER ANY APPLICABLE CODE RELATING TO THE
11 FOLLOWING PROVISIONS INCORPORATED IN THE ANNE ARUNDEL COUNTY CODE BY
12 REFERENCE:

13 (I) ARTICLE 11 - CRIMES AND PUNISHMENTS;

14 (II) ARTICLE 12 - ANIMAL CONTROL;

15 (III) ARTICLE 14 - ENVIRONMENTAL HEALTH;

16 (IV) ARTICLE 16 - LICENSES AND PERMITS; AND

17 (V) ARTICLE 22 - HOUSING MAINTENANCE AND OCCUPANCY CODE.

18 (4) "NUISANCE" MEANS, ~~WITHIN THE BOUNDARIES OF THE COMMUNITY~~
19 ~~REPRESENTED BY THE COMMUNITY ASSOCIATION~~:

20 (I) AN ACT OR CONDITION KNOWINGLY CREATED, PERFORMED, OR
21 MAINTAINED ON PRIVATE PROPERTY THAT CONSTITUTES A LOCAL CODE VIOLATION
22 AND THAT:

23 1. SIGNIFICANTLY AFFECTS OTHER RESIDENTS OF THE
24 NEIGHBORHOOD;

25 2. DIMINISHES THE VALUE OF NEIGHBORING PROPERTY;
26 AND

27 3. A. IS INJURIOUS TO PUBLIC HEALTH, SAFETY, OR
28 WELFARE OF NEIGHBORING RESIDENTS; OR

29 B. OBSTRUCTS THE REASONABLE USE OF OTHER PROPERTY
30 IN THE NEIGHBORHOOD;

31 (II) A PROPERTY WHERE THE TENANT, OWNER, OR OTHER
32 OCCUPANT HAS BEEN CONVICTED OF VIOLATIONS OF ARTICLE 27, § 121 OR § 122 OF
33 THE CODE FOR CONDUCT OCCURRING ON, IN, OR IN RELATION TO THE PROPERTY; OR

1 (III) A PROPERTY TO WHICH POLICE OR OTHER LAW ENFORCEMENT
 2 AGENCIES HAVE RESPONDED TO COMPLAINTS OR CALLS FOR SERVICE 10 OR MORE
 3 TIMES WITHIN ANY 30 DAY PERIOD.

4 (B) THIS SECTION ONLY APPLIES TO A NUISANCE LOCATED WITHIN THE
 5 BOUNDARIES OF ANNE ARUNDEL COUNTY.

6 (C) AN ACTION ~~UNDER § 4-401 OF THE COURTS ARTICLE~~ TO ABATE A
 7 NUISANCE MAY BE BROUGHT UNDER THIS SECTION AND § 4-401 OF THE COURTS
 8 ARTICLE BY:

9 (1) THE STATE'S ATTORNEY FOR ANNE ARUNDEL COUNTY;

10 (2) THE COUNTY ATTORNEY FOR ANNE ARUNDEL COUNTY;

11 (3) A COMMUNITY ASSOCIATION WITHIN WHOSE BOUNDARIES THE
 12 NUISANCE IS LOCATED; OR

13 (4) THE CITY ATTORNEY FOR THE CITY OF ANNAPOLIS.

14 (D) (1) ~~A COMMUNITY ASSOCIATION~~ PERSON SPECIFIED IN SUBSECTION (C)
 15 OF THIS SECTION MAY SEEK INJUNCTIVE AND OTHER EQUITABLE RELIEF IN THE
 16 ~~CIRCUIT COURT~~ DISTRICT COURT FOR ABATEMENT OF A NUISANCE UPON SHOWING:

17 (I) THE NOTICE REQUIREMENTS UNDER PARAGRAPHS (2) AND (3)
 18 OF THIS SUBSECTION HAVE BEEN SATISFIED; AND

19 (II) THE NUISANCE HAS NOT BEEN ABATED.

20 (2) (I) AN ACTION MAY NOT BE BROUGHT ~~BY A COMMUNITY~~
 21 ~~ASSOCIATION~~ UNDER THIS SECTION BASED ON A NUISANCE UNTIL 60 DAYS AFTER
 22 THE ~~COMMUNITY ASSOCIATION~~ PLAINTIFF GIVES NOTICE OF THE VIOLATION AND
 23 OF THE ~~COMMUNITY ASSOCIATION'S~~ PLAINTIFF'S INTENT TO BRING AN ACTION
 24 UNDER THIS SECTION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE
 25 APPLICABLE LOCAL ENFORCEMENT AGENCY.

26 (II) AN ACTION MAY NOT BE BROUGHT ~~BY A COMMUNITY~~
 27 ~~ASSOCIATION~~ UNDER THIS SECTION IF THE APPLICABLE CODE ENFORCEMENT
 28 AGENCY HAS FILED AN ACTION FOR EQUITABLE RELIEF FROM THE NUISANCE.

29 (3) (I) AN ACTION MAY NOT BE BROUGHT ~~BY A COMMUNITY~~
 30 ~~ASSOCIATION~~ UNDER THIS SECTION UNTIL 60 DAYS AFTER THE TENANT, IF ANY, AND
 31 OWNER OF RECORD RECEIVE NOTICE FROM THE ~~COMMUNITY ASSOCIATION~~
 32 PLAINTIFF THAT A NUISANCE EXISTS AND THAT LEGAL ACTION MAY BE TAKEN IF
 33 THE NUISANCE IS NOT ABATED.

34 (II) THE NOTICE SHALL SPECIFY:

35 1. THE NATURE OF THE ALLEGED NUISANCE;

1 (D) OF THIS SECTION, THE COURT, AFTER A HEARING, MAY ORDER A TENANT WHO
2 KNEW OR SHOULD HAVE KNOWN OF THE EXISTENCE OF THE NUISANCE TO VACATE
3 THE PROPERTY WITHIN 72 HOURS.

4 (2) THE COURT, AFTER A HEARING, MAY GRANT A JUDGMENT OF
5 RESTITUTION OR THE POSSESSION OF RENTAL PROPERTY TO THE OWNER IF:

6 (I) THE OWNER AND TENANT ARE PARTIES TO THE ACTION; AND

7 (II) A TENANT HAS FAILED TO OBEY AN ORDER UNDER
8 SUBSECTION (D) OF THIS SECTION OR PARAGRAPH (1) OF THIS SUBSECTION.

9 (3) IF THE COURT ORDERS RESTITUTION OF THE POSSESSION OF THE
10 PROPERTY UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COURT SHALL
11 IMMEDIATELY ISSUE ITS WARRANT TO THE SHERIFF OR CONSTABLE COMMANDING
12 EXECUTION OF THE WARRANT WITHIN 5 DAYS AFTER ISSUANCE OF THE WARRANT.

13 (4) IN ADDITION TO OR AS A PART OF ANY INJUNCTION, RESTRAINING
14 ORDER, OR OTHER RELIEF ORDERED, THE COURT MAY ORDER THE OWNER OF THE
15 PROPERTY TO SUBMIT FOR COURT APPROVAL A PLAN OF CORRECTION TO ENSURE,
16 TO THE EXTENT REASONABLY POSSIBLE, THAT THE PROPERTY WILL NOT AGAIN BE
17 USED FOR A NUISANCE IF:

18 (I) THE OWNER IS A PARTY TO THE ACTION; AND

19 (II) THE OWNER KNEW OR SHOULD HAVE KNOWN OF THE
20 EXISTENCE OF THE NUISANCE.

21 (5) IF AN OWNER FAILS TO COMPLY WITH AN ORDER TO ABATE A
22 NUISANCE, AFTER A HEARING THE COURT MAY, IN ADDITION TO ANY OTHER RELIEF
23 GRANTED, ORDER THAT THE PROPERTY BE DEMOLISHED IF THE PROPERTY IS UNFIT
24 FOR HABITATION AND THE ESTIMATED COST OF REHABILITATION SIGNIFICANTLY
25 EXCEEDS THE ESTIMATED MARKET VALUE OF THE PROPERTY AFTER
26 REHABILITATION.

27 (G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THIS SECTION
28 MAY NOT BE CONSTRUED TO ABROGATE ANY EQUITABLE OR LEGAL RIGHT OR
29 REMEDY OTHERWISE AVAILABLE UNDER THE LAW TO ABATE A NUISANCE.

30 (2) THIS SECTION MAY NOT BE CONSTRUED AS GRANTING STANDING
31 FOR AN ACTION:

32 (I) CHALLENGING ANY ZONING APPLICATION OR APPROVAL;

33 (II) IN WHICH THE ALLEGED NUISANCE CONSISTS OF:

34 1. A CONDITION RELATING TO LEAD PAINT; OR

35 2. AN INTERIOR PHYSICAL DEFECT OF A PROPERTY;

1 (III) INVOLVING ANY VIOLATION OF ALCOHOLIC BEVERAGES LAWS
2 UNDER ARTICLE 2B OF THE CODE; OR

3 (IV) INVOLVING ANY MATTER IN WHICH A CERTIFICATE, LICENSE,
4 PERMIT, OR REGISTRATION IS REQUIRED OR ALLOWED UNDER THE ENVIRONMENT
5 ARTICLE.

6 ~~(H) AN ACTION UNDER THIS SECTION SHALL BE HEARD WITHIN 14 DAYS~~
7 ~~AFTER SERVICE OF PROCESS ON THE PARTIES.~~

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2001.