
By: **Senator Jimeno**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

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

17 BY adding to
18 Article - Real Property
19 Section 14-127
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 2000 Supplement)

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

24 **Article - Real Property**

25 14-127.

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

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

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

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

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

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

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

13 (VI) IS IN GOOD STANDING.

14 (3) "LOCAL CODE VIOLATION" MEANS A VIOLATION UNDER THE
15 FOLLOWING PROVISIONS OF THE ANNE ARUNDEL COUNTY CODE, AS AMENDED
16 FROM TIME TO TIME, OR UNDER ANY APPLICABLE CODE RELATING TO THE
17 FOLLOWING PROVISIONS INCORPORATED IN THE ANNE ARUNDEL COUNTY CODE BY
18 REFERENCE:

19 (I) ARTICLE 11 - CRIMES AND PUNISHMENTS;

20 (II) ARTICLE 12 - ANIMAL CONTROL;

21 (III) ARTICLE 14 - ENVIRONMENTAL HEALTH;

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

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

24 (4) "NUISANCE" MEANS, WITHIN THE BOUNDARIES OF THE COMMUNITY
25 REPRESENTED BY THE COMMUNITY ASSOCIATION:

26 (I) AN ACT OR CONDITION KNOWINGLY CREATED, PERFORMED, OR
27 MAINTAINED ON PRIVATE PROPERTY THAT CONSTITUTES A LOCAL CODE VIOLATION
28 AND THAT:

29 1. SIGNIFICANTLY AFFECTS OTHER RESIDENTS OF THE
30 NEIGHBORHOOD;

31 2. DIMINISHES THE VALUE OF NEIGHBORING PROPERTY;
32 AND

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

1 B. OBSTRUCTS THE REASONABLE USE OF OTHER PROPERTY
2 IN THE NEIGHBORHOOD;

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

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

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

11 (C) AN ACTION UNDER § 4-401 OF THE COURTS ARTICLE TO ABATE A
12 NUISANCE MAY BE BROUGHT BY:

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

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

15 (3) A COMMUNITY ASSOCIATION WITHIN WHOSE BOUNDARIES THE
16 NUISANCE IS LOCATED; OR

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

18 (D) (1) A COMMUNITY ASSOCIATION MAY SEEK INJUNCTIVE AND OTHER
19 EQUITABLE RELIEF IN THE CIRCUIT COURT FOR ABATEMENT OF A NUISANCE UPON
20 SHOWING:

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

23 (II) THE NUISANCE HAS NOT BEEN ABATED.

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

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

33 (3) (I) AN ACTION MAY NOT BE BROUGHT BY A COMMUNITY
34 ASSOCIATION UNDER THIS SECTION UNTIL 60 DAYS AFTER THE TENANT, IF ANY, AND
35 OWNER OF RECORD RECEIVE NOTICE FROM THE COMMUNITY ASSOCIATION THAT A

1 NUISANCE EXISTS AND THAT LEGAL ACTION MAY BE TAKEN IF THE NUISANCE IS
2 NOT ABATED.

3 (II) THE NOTICE SHALL SPECIFY:

- 4 1. THE NATURE OF THE ALLEGED NUISANCE;
- 5 2. THE DATE AND TIME OF DAY THE NUISANCE WAS FIRST
6 DISCOVERED;
- 7 3. THE LOCATION ON THE PROPERTY WHERE THE NUISANCE
8 IS ALLEGEDLY OCCURRING; AND
- 9 4. THE RELIEF SOUGHT.

10 (III) THE NOTICE SHALL BE PROVIDED TO THE TENANT, IF ANY, AND
11 THE OWNER OF RECORD IN THE SAME MANNER AS SERVICE OF PROCESS IN A CIVIL
12 IN PERSONAM ACTION UNDER THE MARYLAND RULES.

13 (IV) 1. IN ADDITION TO ANY SERVICE OF PROCESS REQUIRED BY
14 THE MARYLAND RULES, THE PLAINTIFF SHALL CAUSE TO BE POSTED IN A
15 CONSPICUOUS PLACE ON THE PROPERTY NO LATER THAN 48 HOURS BEFORE THE
16 HEARING THE NOTICE REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION.

- 17 2. THE NOTICE SHALL INDICATE:
- 18 A. THE NATURE OF THE PROCEEDINGS;
- 19 B. THE TIME AND PLACE OF THE HEARING; AND
- 20 C. THE NAME AND TELEPHONE NUMBER OF THE PERSON TO
21 CONTACT FOR ADDITIONAL INFORMATION.

22 (V) IN FILING A SUIT UNDER THIS SECTION, AN OFFICER OF THE
23 COMMUNITY ASSOCIATION SHALL CERTIFY TO THE COURT:

- 24 1. WHAT STEPS THE COMMUNITY ASSOCIATION HAS TAKEN
25 TO SATISFY THE NOTICE REQUIREMENTS UNDER THIS SUBSECTION; AND
- 26 2. THAT EACH CONDITION PRECEDENT TO THE FILING OF
27 AN ACTION UNDER THIS SECTION HAS BEEN MET.

28 (4) A PROCEEDING UNDER THIS SECTION SHALL:

- 29 (I) TAKE PRECEDENCE ON THE DOCKET;
- 30 (II) BE HEARD AT THE EARLIEST PRACTICABLE DATE; AND
- 31 (III) BE EXPEDITED IN EVERY WAY.

1 (E) A POLITICAL SUBDIVISION OF THE STATE OR ANY AGENCY OF A POLITICAL
2 SUBDIVISION MAY NOT BE SUBJECT TO ANY ACTION BROUGHT UNDER THIS SECTION
3 OR AN ACTION RESULTING FROM AN ACTION BROUGHT UNDER THIS SECTION
4 AGAINST A PRIVATE PROPERTY OWNER.

5 (F) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND IN
6 ADDITION TO OR AS A COMPONENT OF ANY REMEDY ORDERED UNDER SUBSECTION
7 (D) OF THIS SECTION, THE COURT, AFTER A HEARING, MAY ORDER A TENANT WHO
8 KNEW OR SHOULD HAVE KNOWN OF THE EXISTENCE OF THE NUISANCE TO VACATE
9 THE PROPERTY WITHIN 72 HOURS.

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

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

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

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

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

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

25 (II) THE OWNER KNEW OR SHOULD HAVE KNOWN OF THE
26 EXISTENCE OF THE NUISANCE.

27 (5) IF AN OWNER FAILS TO COMPLY WITH AN ORDER TO ABATE A
28 NUISANCE, AFTER A HEARING THE COURT MAY, IN ADDITION TO ANY OTHER RELIEF
29 GRANTED, ORDER THAT THE PROPERTY BE DEMOLISHED IF THE PROPERTY IS UNFIT
30 FOR HABITATION AND THE ESTIMATED COST OF REHABILITATION SIGNIFICANTLY
31 EXCEEDS THE ESTIMATED MARKET VALUE OF THE PROPERTY AFTER
32 REHABILITATION.

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

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

38 (I) CHALLENGING ANY ZONING APPLICATION OR APPROVAL;

(II) IN WHICH THE ALLEGED NUISANCE CONSISTS OF:

1. A CONDITION RELATING TO LEAD PAINT; OR

2. AN INTERIOR PHYSICAL DEFECT OF A PROPERTY;

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

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

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

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

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