
By: **Senator Jimeno**
Introduced and read first time: February 2, 2001
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
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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.

18 BY repealing and reenacting, with amendments,
19 Article - Courts and Judicial Proceedings
20 Section 4-401(7)
21 Annotated Code of Maryland
22 (1998 Replacement Volume and 2000 Supplement)

23 BY adding to
24 Article - Real Property
25 Section ~~14-127~~ 14-125.1

1 Annotated Code of Maryland
2 (1996 Replacement Volume and 2000 Supplement)

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

5 **Article - Courts and Judicial Proceedings**

6 4-401.

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

10 (7) A petition of injunction filed by:

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

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

15 **Article - Real Property**

16 ~~44-127~~ 14-125.1.

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

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

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

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

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

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

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

33 (VI) IS IN GOOD STANDING.

1 (3) "LOCAL CODE VIOLATION" MEANS A VIOLATION UNDER THE
2 FOLLOWING PROVISIONS OF THE ANNE ARUNDEL COUNTY CODE, ~~AS AMENDED~~
3 ~~FROM TIME TO TIME~~, OR UNDER ANY APPLICABLE CODE RELATING TO THE
4 FOLLOWING PROVISIONS INCORPORATED IN THE ANNE ARUNDEL COUNTY CODE BY
5 REFERENCE:

6 (I) ARTICLE 11 - CRIMES AND PUNISHMENTS;

7 (II) ARTICLE 12 - ANIMAL CONTROL;

8 (III) ARTICLE 14 - ENVIRONMENTAL HEALTH;

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

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

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

13 (I) AN ACT OR CONDITION KNOWINGLY CREATED, PERFORMED, OR
14 MAINTAINED ON PRIVATE PROPERTY THAT CONSTITUTES A LOCAL CODE VIOLATION
15 AND THAT:

16 1. SIGNIFICANTLY AFFECTS OTHER RESIDENTS OF THE
17 NEIGHBORHOOD;

18 2. DIMINISHES THE VALUE OF NEIGHBORING PROPERTY;
19 AND

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

22 B. OBSTRUCTS THE REASONABLE USE OF OTHER PROPERTY
23 IN THE NEIGHBORHOOD;

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

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

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

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

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

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

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

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

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

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

10 (II) THE NUISANCE HAS NOT BEEN ABATED.

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

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

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

25 (II) THE NOTICE SHALL SPECIFY:

26 1. THE NATURE OF THE ALLEGED NUISANCE;

27 2. THE DATE AND TIME OF DAY THE NUISANCE WAS FIRST
28 DISCOVERED;

29 3. THE LOCATION ON THE PROPERTY WHERE THE NUISANCE
30 IS ALLEGEDLY OCCURRING; AND

31 4. THE RELIEF SOUGHT.

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

35 (IV) 1. IN ADDITION TO ANY SERVICE OF PROCESS REQUIRED BY
36 THE MARYLAND RULES, THE PLAINTIFF SHALL CAUSE TO BE POSTED IN A

1 CONSPICUOUS PLACE ON THE PROPERTY NO LATER THAN 48 HOURS BEFORE THE
 2 HEARING THE NOTICE REQUIRED UNDER ~~PARAGRAPH (2) OF THIS SUBSECTION~~
 3 SUB-SUBPARAGRAPH 2 OF THIS SUBPARAGRAPH.

4 2. THE NOTICE SHALL INDICATE:
 5 A. THE NATURE OF THE PROCEEDINGS;
 6 B. THE TIME AND PLACE OF THE HEARING; AND
 7 C. THE NAME AND TELEPHONE NUMBER OF THE PERSON TO
 8 CONTACT FOR ADDITIONAL INFORMATION.

9 ~~(V)~~ (4) IN FILING A SUIT UNDER THIS SECTION, ~~AN OFFICER OF~~
 10 ~~THE COMMUNITY ASSOCIATION~~ THE PLAINTIFF SHALL CERTIFY TO THE COURT:

11 1. WHAT STEPS THE ~~COMMUNITY ASSOCIATION~~ PLAINTIFF
 12 HAS TAKEN TO SATISFY THE NOTICE REQUIREMENTS UNDER THIS SUBSECTION; AND

13 2. THAT EACH CONDITION PRECEDENT TO THE FILING OF
 14 AN ACTION UNDER THIS SECTION HAS BEEN MET.

15 ~~(4)~~ (5) A PROCEEDING UNDER THIS SECTION SHALL:

16 (I) TAKE PRECEDENCE ON THE DOCKET;
 17 (II) BE HEARD AT THE EARLIEST PRACTICABLE DATE; AND
 18 (III) BE EXPEDITED IN EVERY WAY.

19 (E) A POLITICAL SUBDIVISION OF THE STATE OR ANY AGENCY OF A POLITICAL
 20 SUBDIVISION MAY NOT BE SUBJECT TO ANY ACTION BROUGHT UNDER THIS SECTION
 21 OR AN ACTION RESULTING FROM AN ACTION BROUGHT UNDER THIS SECTION
 22 AGAINST A PRIVATE PROPERTY OWNER.

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

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

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

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

33 (3) IF THE COURT ORDERS RESTITUTION OF THE POSSESSION OF THE
 34 PROPERTY UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE COURT SHALL

1 IMMEDIATELY ISSUE ITS WARRANT TO THE SHERIFF OR CONSTABLE COMMANDING
2 EXECUTION OF THE WARRANT WITHIN 5 DAYS AFTER ISSUANCE OF THE WARRANT.

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

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

9 (II) THE OWNER KNEW OR SHOULD HAVE KNOWN OF THE
10 EXISTENCE OF THE NUISANCE.

11 (5) IF AN OWNER FAILS TO COMPLY WITH AN ORDER TO ABATE A
12 NUISANCE, AFTER A HEARING THE COURT MAY, IN ADDITION TO ANY OTHER RELIEF
13 GRANTED, ORDER THAT THE PROPERTY BE DEMOLISHED IF THE PROPERTY IS UNFIT
14 FOR HABITATION AND THE ESTIMATED COST OF REHABILITATION SIGNIFICANTLY
15 EXCEEDS THE ESTIMATED MARKET VALUE OF THE PROPERTY AFTER
16 REHABILITATION.

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

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

22 (I) CHALLENGING ANY ZONING APPLICATION OR APPROVAL;

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

24 1. A CONDITION RELATING TO LEAD PAINT; OR

25 2. AN INTERIOR PHYSICAL DEFECT OF A PROPERTY;

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

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

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

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

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