

SENATE BILL 802

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2004 Regular Session  
4r2793  
CF 4r2931

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By: **Senator Della**

Introduced and read first time: February 16, 2004

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Abatement of Nuisance Actions**

3 FOR the purpose of authorizing a court to order certain remedies for the abatement of  
4 a nuisance under certain circumstances; authorizing a law enforcement officer  
5 or an employee of an office of the State's Attorney to disclose the contents of a  
6 certain search warrant and papers filed in connection with the search warrant  
7 to certain persons; providing for the application of certain provisions of this Act;  
8 adding a certain definition; and generally relating to abatement of nuisance  
9 actions.

10 BY repealing and reenacting, with amendments,  
11 Article - Real Property  
12 Section 14-120  
13 Annotated Code of Maryland  
14 (2003 Replacement Volume and 2003 Supplement)

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

17 **Article - Real Property**

18 14-120.

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

20 (2) "Community association" means:

21 (i) A nonprofit association, corporation, or other organization that  
22 is:

23 1. Comprised of residents of a community within which a  
24 nuisance is located;

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

- 1  
2 Internal Revenue Code; or
- 3                                   3.       Exempt from taxation under § 501(c)(3) or (4) of the  
4 is:
- 5                                   (ii)     A nonprofit association, corporation, or other organization that  
6 defined by specific geographic boundaries, within which a nuisance is located; and
- 7                                   1.       Comprised of residents of a contiguous community that is  
8 and enhancement of that community.
- 9                                   2.       Operated for the promotion of the welfare, improvement  
10 Schedule I or Schedule II under § 5-402 or § 5-403 of the Criminal Law Article.
- 11                                  (3)     "Controlled dangerous substance" means a substance listed in  
12                                  (4)     "Nuisance" means a property that is used:  
13 administering a controlled dangerous substance;
- 14                                  (i)     By persons who assemble for the specific purpose of illegally  
15                                  (ii)     For the illegal manufacture, or distribution of:
- 16   1.       A controlled dangerous substance; or  
17 Criminal Law Article; or
- 18   2.       Controlled paraphernalia, as defined in § 5-101 of the  
19 substance in sufficient quantity to reasonably indicate under all the circumstances an  
20 intent to manufacture, distribute, or dispense:
- 21   1.       A controlled dangerous substance; or  
22   2.       Controlled paraphernalia, as defined in § 5-101 of the  
23 Criminal Law Article.
- 24                                  (iii)    For the illegal storage or concealment of a controlled dangerous  
25 OVER PROPERTY.                   (I)     "OPERATOR" MEANS A PERSON THAT EXERCISES CONTROL
- 26                                  (ii)    "OPERATOR" INCLUDES A PERSON THAT IS AUTHORIZED TO  
27 EVICT A TENANT FROM PROPERTY.
- 28                                  (6)     "Owner" includes an owner-occupant.
- 29                                  [(6)]   (7)     "Property" includes a mobile home.
- 30                                  [(7)]   (8)     (i)     "Tenant" means the lessee or a person occupying property,  
31 whether or not a party to a lease.
- 32   (ii)    "Tenant" includes a lessee or a person occupying a mobile home,  
33 whether or not a party to a lease.

- 1 (iii) "Tenant" does not include:
- 2 1. The owner of the property; or
- 3 2. A mobile home owner who leases or rents a site for  
4 residential use and resides in a mobile home park.

5 (b) An action under § 4-401 of the Courts Article to abate a nuisance may be  
6 brought by:

- 7 (1) The State's Attorney of the county in which the nuisance is located;
- 8 (2) The county attorney or solicitor of the county in which the nuisance is  
9 located;
- 10 (3) A community association within whose boundaries the nuisance is  
11 located; or
- 12 (4) A municipal corporation within whose boundaries the nuisance is  
13 located.

14 (c) (1) An action may not be brought under this section concerning a  
15 commercial property until 45 days after the tenant, if any, and owner of record receive  
16 notice from a person entitled to bring an action under this section that a nuisance  
17 exists.

- 18 (2) The notice shall specify:
- 19 (i) The date and time of day the nuisance was first discovered; and
- 20 (ii) The location on the property where the nuisance is allegedly  
21 occurring.
- 22 (3) The notice shall be:
- 23 (i) Hand delivered to the tenant, if any, and the owner of record; or
- 24 (ii) Sent by certified mail to the tenant, if any, and the owner of  
25 record.

26 (d) (1) In addition to any service of process required by the Maryland Rules,  
27 the plaintiff shall cause to be posted in a conspicuous place on the property no later  
28 than 48 hours before the hearing the notice required under paragraph (2) of this  
29 subsection.

- 30 (2) The notice shall indicate:
- 31 (i) The nature of the proceedings;
- 32 (ii) The time and place of the hearing; and

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

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

5 (f) (1) Notwithstanding any other provision of law, and in addition to or as a  
6 component of any remedy ordered under subsection (e) of this section, the court, after  
7 a hearing, may:

8 (I) [order] ORDER a tenant who knew or REASONABLY should  
9 have known of the existence of the nuisance to vacate the property within 72 hours;

10 (II) ORDER AN OWNER OR OWNER-OCCUPANT WHO KNEW OR  
11 REASONABLY SHOULD HAVE KNOWN OF THE EXISTENCE OF THE NUISANCE, TO  
12 ABATE THE NUISANCE;

13 (III) ORDER, IF AN OWNER OR OWNER-OCCUPANT FAILS TO COMPLY  
14 WITH AN ORDER TO ABATE THE NUISANCE UNDER ITEM (II) OF THIS PARAGRAPH:

15 1. ALL OCCUPANTS OF THE PROPERTY TO VACATE THE  
16 PROPERTY WITHIN 72 HOURS FOR A PERIOD OF TIME NOT EXCEEDING 1 YEAR;

17 2. THAT THE PROPERTY REMAIN UNOCCUPIED; OR

18 3. THE OWNER TO MAINTAIN THE UNOCCUPIED PROPERTY  
19 IN A CLEAN, SANITARY, AND SECURE CONDITION IN ACCORDANCE WITH LOCAL  
20 LAWS.

21 (IV) IF THE PROPERTY IS COMMERCIAL, ORDER AN OWNER OR A  
22 TENANT WHO KNEW OF OR REASONABLY SHOULD HAVE KNOWN OF THE EXISTENCE  
23 OF THE NUISANCE, TO:

24 1. VACATE THE PROPERTY WITHIN 72 HOURS FOR A PERIOD  
25 OF TIME NOT EXCEEDING 1 YEAR;

26 2. KEEP THE PROPERTY UNOCCUPIED; OR

27 3. MAINTAIN THE UNOCCUPIED PROPERTY IN A CLEAN,  
28 SANITARY, AND SECURE CONDITION IN ACCORDANCE WITH LOCAL LAWS;

29 (V) APPOINT AN AGENT TO ABATE THE NUISANCE IF AN OWNER OR  
30 OWNER-OCCUPANT IS UNAVAILABLE TO ABATE THE NUISANCE; OR

31 (VI) ORDER THE SALE OF THE PROPERTY TO BE CONDUCTED IN  
32 ACCORDANCE WITH MARYLAND RULE 2-644, MARYLAND RULE 3-644, OR TITLE 14,  
33 CHAPTER 300 OF THE MARYLAND RULES AND MAY APPOINT AN AUDITOR IN  
34 ACCORDANCE WITH MARYLAND RULE 2-543.

35 (2) The court, after a hearing, may grant a judgment of restitution or the  
36 possession of rental property to the owner if:

- 1 (i) The owner and tenant are parties to the action; and
- 2 (ii) A tenant has failed to obey an order under subsection (e) of this  
3 section or paragraph (1) of this subsection.
- 4 (3) If the court orders restitution of the possession of the property under  
5 paragraph (2) of this subsection, the court shall immediately issue its warrant to the  
6 sheriff or constable commanding execution of the warrant within 5 days after  
7 issuance of the warrant.
- 8 (4) In addition to or as a part of any injunction, restraining order, or  
9 other relief ordered, the court may order the owner of the property to submit for court  
10 approval a plan of correction to ensure, to the extent reasonably possible, that the  
11 property will not again be used for a nuisance if:
- 12 (i) The owner is a party to the action; and
- 13 (ii) The owner knew or should have known of the existence of the  
14 nuisance.
- 15 (5) If an owner fails to comply with an order to abate a nuisance, after a  
16 hearing the court may, in addition to any other relief granted, order that the property  
17 be demolished if the property is unfit for habitation and the estimated cost of  
18 rehabilitation significantly exceeds the estimated market value of the property after  
19 rehabilitation.
- 20 (g) Except as provided in subsection (f)(1) and (4) of this section, the court may  
21 order appropriate relief under subsections (e) and (f) of this section without proof that  
22 a defendant knew of the existence of the nuisance.
- 23 (h) In any action brought under this section:
- 24 (1) Evidence of the general reputation of the property is admissible to  
25 corroborate testimony based on personal knowledge or observation, or evidence seized  
26 during the execution of a search and seizure warrant, but shall not, in and of itself, be  
27 sufficient to establish the existence of a nuisance under this section; and
- 28 (2) Evidence that the nuisance had been discontinued at the time of the  
29 filing of the complaint or at the time of the hearing does not bar the imposition of  
30 appropriate relief by the court under subsections (e) and (f) of this section.
- 31 (i) The court may award court costs and reasonable attorney's fees to a  
32 community association that is the prevailing plaintiff in an action brought under this  
33 section.
- 34 (j) An action under this section shall be heard within 14 days after service of  
35 process on the parties.
- 36 (k) This section does not abrogate any equitable or legal right or remedy under  
37 existing law to abate a nuisance.

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

3 (2) If either party files a request for oral argument, the court shall hear  
4 the oral argument within 7 days after the request is filed.

5 (3) (i) If the appellant files a request for oral argument, the request  
6 shall be filed at the time of the filing of the appeal.

7 (ii) If the appellee files a request for oral argument, the request  
8 shall be filed within 2 days of receiving notice of the appeal.

9 (m) Provisions of the Real Property Article or public local laws applicable to  
10 actions between a landlord and tenant are not applicable to actions brought against a  
11 landlord or a tenant under this section.

12 (N) (1) THIS SUBSECTION DOES NOT APPLY TO AN AFFIDAVIT THAT HAS  
13 BEEN SEALED IN ACCORDANCE WITH § 1-203 OF THE CRIMINAL PROCEDURE  
14 ARTICLE.

15 (2) A LAW ENFORCEMENT OFFICER OR AN EMPLOYEE OF AN OFFICE OF  
16 THE STATE'S ATTORNEY MAY DISCLOSE THE CONTENTS OF A SEARCH WARRANT  
17 ISSUED UNDER THIS SECTION AND PAPERS FILED IN CONNECTION WITH THE  
18 SEARCH WARRANT TO:

19 (I) A COMMUNITY ASSOCIATION OR ITS LEGAL COUNSEL;

20 (II) AN OWNER, TENANT, OR OPERATOR OF THE SEARCHED  
21 PROPERTY OR AN AGENT OF THE OWNER, TENANT, OR OPERATOR OF THE SEARCHED  
22 PROPERTY; OR

23 (III) ANY OTHER PERSON IF THE DISCLOSURE IS NECESSARY TO  
24 ACCOMPLISH THE PURPOSES OF THIS SECTION.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
26 effect October 1, 2004.