
By: **Delegates Oaks, Carter, and Rosenberg**
Introduced and read first time: March 6, 2006
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Community Associations - Abatement of Nuisances - Lead**

3 FOR the purpose of authorizing certain community associations to bring certain
4 actions in the circuit court for relief from certain nuisances involving lead;
5 requiring certain notices to certain property owners before a nuisance
6 abatement action may be brought; requiring community associations to file a
7 certain bond with the court in order for relief to be provided; providing that a
8 political subdivision may not be subject to certain actions; providing for the
9 construction of this Act; defining certain terms; and generally relating to the
10 right of community associations to seek abatement of certain lead-related
11 nuisances.

12 BY adding to
13 Article - Real Property
14 Section 14-120.1
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2005 Supplement)

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

19 **Article - Real Property**

20 14-120.1.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
22 INDICATED.

23 (2) "COMMUNITY ASSOCIATION" HAS THE MEANING STATED IN § 14-120
24 OF THIS SUBTITLE.

25 (3) "NUISANCE" MEANS A PROPERTY THAT IS:

26 (I) A PRE-1978 RESIDENTIAL PROPERTY THAT HAS EXTERIOR
27 PEELING, CHIPPING, OR FLAKING PAINT;

1 (II) AN AFFECTED PROPERTY, AS DEFINED IN § 6-801 OF THE
2 ENVIRONMENT ARTICLE, THAT IS NOT IN COMPLIANCE WITH § 6-815, § 6-817, OR §
3 6-819 OF THE ENVIRONMENT ARTICLE;

4 (III) A RESIDENTIAL PROPERTY THAT HAS AN OUTSTANDING LEAD
5 VIOLATION ISSUED BY A LOCAL HEALTH DEPARTMENT; OR

6 (IV) A RESIDENTIAL PROPERTY THAT HAS AN OUTSTANDING
7 HOUSING CODE VIOLATION FOR EXTERIOR PEELING, CHIPPING, OR FLAKING PAINT
8 ISSUED BY A LOCAL CODE ENFORCEMENT AGENCY.

9 (4) FOR THE PURPOSES OF THIS SECTION, "NUISANCE" EXCLUDES ANY
10 PRE-1978 RESIDENTIAL PROPERTY THAT HAS BEEN CERTIFIED LEAD-FREE.

11 (5) "PROPERTY OWNER" INCLUDES AN OWNER OCCUPANT AND AN
12 OWNER OF AN AFFECTED PROPERTY, AS DEFINED UNDER § 6-801 OF THE
13 ENVIRONMENT ARTICLE.

14 (B) (1) A COMMUNITY ASSOCIATION MAY SEEK INJUNCTIVE AND OTHER
15 EQUITABLE RELIEF IN CIRCUIT COURT FOR THE ABATEMENT OF A NUISANCE ON
16 SHOWING THAT:

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

19 (II) THE NUISANCE HAS NOT BEEN ABATED.

20 (2) (I) AN ACTION MAY NOT BE BROUGHT UNDER THIS SECTION
21 UNTIL 60 DAYS AFTER THE COMMUNITY ASSOCIATION SENDS NOTICE TO THE
22 PROPERTY OWNER OF RECORD THAT A NUISANCE EXISTS AND THE LEGAL ACTION
23 MAY BE TAKEN IF THE NUISANCE IS NOT ABATED.

24 (II) THE NOTICE SHALL SPECIFY:

25 1. THE NATURE OF THE ALLEGED NUISANCE;

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

28 3. THE RELIEF SOUGHT IN THE ACTION.

29 (III) 1. THE NOTICE SHALL BE PROVIDED TO THE PROPERTY
30 OWNER OF RECORD IN THE SAME MANNER AS SERVICE OF PROCESS IN A CIVIL IN
31 PERSONAM ACTION UNDER THE MARYLAND RULES.

32 2. ADEQUATE AND SUFFICIENT NOTICE MAY BE GIVEN TO
33 THE PROPERTY OWNER OF RECORD BY SENDING A COPY OF THE NOTICE BY
34 REGULAR MAIL AND POSTING A COPY OF THE NOTICE ON THE PROPERTY WHERE
35 THE NUISANCE IS ALLEGEDLY OCCURRING, IF NOTICE SENT BY CERTIFIED MAIL IS:

36 A. RETURNED UNCLAIMED OR REFUSED;

1 B. DESIGNATED BY THE POST OFFICE TO BE
2 UNDELIVERABLE FOR ANY OTHER REASON; OR

3 C. SIGNED FOR BY A PERSON OTHER THAN THE ADDRESSEE.

4 (IV) IN FILING A SUIT UNDER THIS SECTION, AN OFFICER OR
5 REPRESENTATIVE OF THE COMMUNITY ASSOCIATION SHALL CERTIFY TO THE
6 COURT:

7 1. WHAT STEPS THE COMMUNITY ASSOCIATION HAS TAKEN
8 TO SATISFY THE NOTICE REQUIREMENTS UNDER THIS SUBSECTION; AND

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

11 (4) RELIEF MAY NOT BE PROVIDED UNDER THIS SECTION UNLESS THE
12 COMMUNITY ASSOCIATION FILES WITH THE COURT A BOND IN AN AMOUNT
13 DETERMINED BY THE COURT AND WITH A SURETY APPROVED BY THE COURT,
14 CONDITIONED TO ANSWER TO THE ADVERSE PARTY FOR ANY COSTS THE PARTY MAY
15 SUSTAIN AS A RESULT OF THE SUIT, INCLUDING REASONABLE ATTORNEY FEES, IF
16 THE COURT FINDS THAT THE ACTION WAS FILED IN BAD FAITH OR WITHOUT
17 SUBSTANTIAL JUSTIFICATION.

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

22 (E) THIS SECTION MAY NOT BE CONSTRUED AS TO ABROGATE ANY
23 EQUITABLE OR LEGAL RIGHT OR REMEDY OTHERWISE AVAILABLE UNDER THE LAW
24 TO ABATE A NUISANCE.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2006.