

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1447

(Delegate Carter, *et al.*)

Judiciary

Baltimore City - Nuisance Actions - Monetary Damages and Lead Paint

This bill authorizes community associations in Baltimore City to seek monetary damages in circuit court for abatement of a nuisance upon showing that the association has met specified notice requirements and the nuisance has not been abated. The bill repeals the prohibition against a community association from bringing an action seeking abatement of a nuisance for a condition relating to lead paint.

Fiscal Summary

State Effect: None. The changes would not materially affect governmental finances.

Local Effect: Potential increase in local expenditures to the extent that the provisions of this bill result in an increase in case filings in the Circuit Court for Baltimore City.

Small Business Effect: Potential meaningful. Community associations in Baltimore City could seek monetary damages in nuisance actions against property owners that qualify as small businesses.

Analysis

Current Law: Community associations meeting specific eligibility criteria may seek injunctive and other equitable relief in circuit court from a qualifying nuisance in Baltimore City. "Nuisance" means an act or condition knowingly created, performed, or maintained on private property that constitutes a local code violation. The condition must significantly affect other residents, diminish the value of neighboring property, and create a public health, safety, or welfare hazard or obstruct the reasonable use of other property.

An action may not be brought until 60 days after the community association notifies the local enforcement agency. Similarly, an action may not be brought until 60 days after the tenant and owner receive notice from the association that a nuisance exists and that legal action may be taken. Certain notices issued by the Department of Housing and Community Development must be considered evidence in matters involving nuisances. Political subdivisions of the State or their agencies are not subject to any actions taken by community associations.

Community associations are prohibited from bringing certain types of nuisance actions based on these provisions, including zoning challenges, lead paint nuisances, nuisances related to an interior physical defect of a property or boarded vacant dwelling that meets specific criteria, violations of alcoholic beverages laws, or specified environmental nuisances.

Chapter 114 of 1994 established the Lead Poisoning Prevention Program in the Maryland Department of the Environment. The program implements the 1994 “Reduction in Lead Risk in Housing Law” and provides limited liability relief for owners of rental property built before 1950 and others in exchange for the reduction of lead hazards in these older rental properties. The program also provides for limited compensation to children who are poisoned by lead.

By December 31, 1995, the owner of an affected property must have registered that property with MDE. An owner who first acquires affected property after that date must register the property within 30 days of acquisition. At each change in occupancy, before the next tenant occupies the property, an owner must satisfy the risk reduction standard by passing the test for lead contaminated dust or performing specified lead hazard reduction treatments. An affected property is exempt from the risk reduction standards under specified conditions.

Background: According to guidelines set by the Centers for Disease Control and Prevention, the maximum recommended blood lead level for a child is 10 micrograms per deciliter of blood (10 µg/dL). Lead poisoning impacts the cognitive and physical development of young children. Children are exposed to lead through breathing lead paint dust, eating lead paint chips, or absorbing lead while in-utero. Most exposures can be eliminated by removing lead paint from the homes of children and pregnant women.

In Baltimore City, citations and prosecution of court cases are two of the methods used to obtain lead hazard abatements. According to the Baltimore City Health Department (BCHD), legal enforcement efforts were responsible for the abatement of 587 homes in the city from 2001 through 2005.

BCHD also reports that in 2005:

- 135 children were identified as having a blood lead level of 15 µg/dL or above (17% decrease from 2004 and 64% decrease compared to 2001 statistics); and
- 265 children were identified as having a blood lead level between 10 µg/dL and 14 µg/dL (36% decrease from 2004).

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of Housing and Community Development, Baltimore City, Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2006
ncs/hlb

Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510