

HOUSE BILL 677

L2, N1

71r1297
CF SB 577

By: **Harford County Delegation**

Introduced and read first time: February 8, 2007

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2007

CHAPTER _____

1 AN ACT concerning

2 **Harford 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 Harford County, ~~the County Attorney for Harford County and the city~~
6 ~~attorneys for the incorporated municipalities of Aberdeen, Havre de Grace, and~~
7 ~~Bel Air~~ to bring certain actions in the District Court for relief from certain
8 nuisances within Harford County; requiring certain notices to the county code
9 enforcement agency and to certain tenants and property owners before a
10 nuisance abatement action may be brought; providing that a political
11 subdivision may not be subject to certain actions; providing for certain
12 remedies; providing for the construction of this Act; defining certain terms; and
13 generally relating to the right of ~~community associations~~, the State's Attorney
14 for Harford County, ~~the County Attorney for Harford County and the city~~
15 ~~attorneys for the incorporated municipalities of Aberdeen, Havre de Grace, and~~
16 ~~Bel Air~~ to seek judicial abatement of certain nuisances in Harford County.

17 BY repealing and reenacting, with amendments,
18 Article – Courts and Judicial Proceedings
19 Section 4-401(7)
20 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2006 Replacement Volume)

2 BY adding to
 3 Article – Real Property
 4 Section 14–125.2
 5 Annotated Code of Maryland
 6 (2003 Replacement Volume and 2006 Supplement)

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

9 **Article – Courts and Judicial Proceedings**

10 4–401.

11 Except as provided in § 4–402 of this subtitle, and subject to the venue
 12 provisions of Title 6 of this article, the District Court has exclusive original civil
 13 jurisdiction in:

14 (7) A petition of injunction filed by:

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

17 (ii) A person who brings an action under [§ 14–120 or §
 18 14–125.1] ~~§ 14–120, § 14–125.1, OR § 14–125.2~~ of the Real Property Article;

19 **Article – Real Property**

20 ~~14–125.2.~~

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

23 ~~(2) “COMMUNITY ASSOCIATION” MEANS A MARYLAND NONPROFIT~~
 24 ~~ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT:~~

25 ~~(i) IS COMPRISED OF AT LEAST 20% OF THE TOTAL~~
 26 ~~NUMBER OF HOUSEHOLDS AS MEMBERS OF A LOCAL COMMUNITY THAT~~
 27 ~~CONSISTS OF 40 OR MORE INDIVIDUAL HOUSEHOLDS AS DEFINED BY SPECIFIC~~
 28 ~~GEOGRAPHIC BOUNDARIES IN THE BYLAWS OR CHARTER OF THE COMMUNITY~~
 29 ~~ASSOCIATION;~~

1 ~~(H) REQUIRES, AS A CONDITION OF MEMBERSHIP, THE~~
2 ~~PAYMENT OF MONETARY DUES AT LEAST ANNUALLY;~~

3 ~~(III) IS OPERATED PRIMARILY FOR THE PROMOTION OF~~
4 ~~SOCIAL WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND~~
5 ~~ENHANCEMENT;~~

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

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

10 ~~(VI) IS IN GOOD STANDING.~~

11 ~~(3)~~ (2) “LOCAL CODE VIOLATION” MEANS A VIOLATION UNDER THE
12 FOLLOWING PROVISIONS OF THE HARFORD COUNTY CODE AS AMENDED FROM
13 TIME TO TIME OR UNDER ANY APPLICABLE CODE RELATING TO THE FOLLOWING
14 PROVISIONS INCORPORATED IN THE HARFORD COUNTY CODE BY REFERENCE,
15 OR COMPARABLE PROVISIONS WITHIN THE CODES OF THE INCORPORATED
16 MUNICIPALITIES OF ABERDEEN, HAVRE DE GRACE, AND BEL AIR:

17 (I) CHAPTER 64 – ANIMALS;

18 (II) CHAPTER 82 – BUILDING CONSTRUCTION;

19 (III) CHAPTER 84 – BUILDINGS, GENERAL;

20 (IV) CHAPTER 109 – ENVIRONMENTAL CONTROL;

21 (V) CHAPTER 157 – LICENSES AND PERMITS;

22 (VI) CHAPTER 162 – LIVABILITY CODE;

23 (VII) CHAPTER 173 – MOBILE HOMES AND TRAILERS; AND

24 (VIII) CHAPTER 179 – NUISANCES AND PUBLIC HEALTH.

25 ~~(4)~~ (3) “NUISANCE” MEANS:

1 (I) AN ACT OR CONDITION CREATED, PERFORMED, OR
2 MAINTAINED ON PRIVATE PROPERTY THAT CONSTITUTES A LOCAL CODE
3 VIOLATION AND THAT:

4 1. NEGATIVELY IMPACTS THE WELL-BEING OF
5 OTHER RESIDENTS; AND

6 2. A. IS INJURIOUS TO PUBLIC HEALTH, SAFETY,
7 OR WELFARE; OR

8 B. OBSTRUCTS THE REASONABLE USE OF
9 PROPERTY;

10 (II) A PROPERTY WHERE THE TENANT, OWNER, OR OTHER
11 OCCUPANT HAS BEEN CONVICTED OF VIOLATIONS OF § 10-201 OR § 10-202 OF
12 THE CRIMINAL LAW ARTICLE FOR CONDUCT OCCURRING ON, IN, OR IN
13 RELATION TO THE PROPERTY;

14 (III) A PROPERTY TO WHICH POLICE OR OTHER LAW
15 ENFORCEMENT AGENCIES HAVE RESPONDED TO COMPLAINTS OR CALLS FOR
16 SERVICE 4 OR MORE TIMES WITHIN ANY 30 DAY PERIOD AND THAT:

17 1. NEGATIVELY IMPACTS THE WELL-BEING OF
18 OTHER RESIDENTS; AND

19 2. A. IS INJURIOUS TO PUBLIC HEALTH, SAFETY,
20 OR WELFARE; OR

21 B. OBSTRUCTS THE REASONABLE USE OF
22 PROPERTY;

23 (IV) A PROPERTY WHERE THE TENANT, OWNER, OR OTHER
24 OCCUPANT HAS BEEN CONVICTED OF VIOLATIONS OF ANY CRIMINAL LAW
25 OCCURRING ON, IN, OR IN RELATION TO THE PROPERTY AND IS RELATED TO
26 THE ACTIVITIES OF A CRIMINAL GANG AS DEFINED IN § 9-801 OF THE CRIMINAL
27 LAW ARTICLE; OR

28 (V) A BUILDING, STRUCTURE, DWELLING, DWELLING UNIT,
29 OR ACCESSORY STRUCTURE THAT:

1 1. CONTAINS DEFECTS DUE TO INADEQUATE
2 MAINTENANCE, OBSOLESCENCE, OR ABANDONMENT THAT INCREASE THE
3 HAZARD OF FIRE, ACCIDENT, OR OTHER CALAMITY; OR

4 2. IS UNSAFE, UNSANITARY, DANGEROUS, OR
5 DETRIMENTAL TO THE HEALTH, SAFETY, OR GENERAL WELFARE OF THE
6 COMMUNITY DUE TO LACK OF MAINTENANCE, INADEQUATE VENTILATION,
7 LIGHT, SANITARY FACILITIES, OR OTHER CONDITIONS.

8 (B) THIS SECTION ONLY APPLIES TO A NUISANCE LOCATED WITHIN THE
9 BOUNDARIES OF HARFORD COUNTY.

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

12 ~~(1) THE THE STATE’S ATTORNEY FOR HARFORD COUNTY;~~

13 ~~(2) THE COUNTY ATTORNEY FOR HARFORD COUNTY;~~

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

16 ~~(4) THE CITY ATTORNEYS FOR THE INCORPORATED
17 MUNICIPALITIES OF ABERDEEN, HAVRE DE GRACE, AND BEL AIR.~~

18 (D) (1) ~~A PERSON SPECIFIED IN SUBSECTION (C) OF THIS SECTION~~
19 THE STATE’S ATTORNEY MAY SEEK INJUNCTIVE AND OTHER EQUITABLE
20 RELIEF IN THE DISTRICT COURT FOR ABATEMENT OF A NUISANCE UPON
21 SHOWING:

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

24 (II) THE NUISANCE HAS NOT BEEN ABATED.

25 (2) (I) AN ACTION MAY NOT BE BROUGHT UNDER THIS
26 SECTION BASED ON A NUISANCE UNTIL 60 DAYS AFTER THE ~~PLAINTIFF~~ STATE’S
27 ATTORNEY GIVES NOTICE OF THE VIOLATION AND OF THE ~~PLAINTIFF’S~~ STATE’S
28 ATTORNEY’S INTENT TO BRING AN ACTION UNDER THIS SECTION BY CERTIFIED

1 MAIL, RETURN RECEIPT REQUESTED, TO THE APPLICABLE LOCAL
2 ENFORCEMENT AGENCY.

3 (II) AN ACTION MAY NOT BE BROUGHT UNDER THIS
4 SECTION IF THE APPLICABLE CODE ENFORCEMENT AGENCY HAS FILED AN
5 ACTION FOR EQUITABLE RELIEF FROM THE NUISANCE.

6 (3) (I) AN ACTION MAY NOT BE BROUGHT UNDER THIS
7 SECTION UNTIL 60 DAYS AFTER THE TENANT, IF ANY, AND OWNER OF RECORD
8 RECEIVE NOTICE FROM THE ~~PLAINTIFF~~ STATE'S ATTORNEY THAT A NUISANCE
9 EXISTS AND THAT LEGAL ACTION MAY BE TAKEN IF THE NUISANCE IS NOT
10 ABATED.

11 (II) THE NOTICE SHALL SPECIFY:

- 12 1. THE NATURE OF THE ALLEGED NUISANCE;
- 13 2. THE DATE AND TIME OF DAY THE NUISANCE WAS
14 FIRST DISCOVERED;
- 15 3. THE LOCATION ON THE PROPERTY WHERE THE
16 NUISANCE IS ALLEGEDLY OCCURRING; AND
- 17 4. THE RELIEF SOUGHT.

18 (III) THE NOTICE SHALL INDICATE:

- 19 1. THE NATURE OF THE PROCEEDINGS;
- 20 2. THE TIME AND PLACE OF THE HEARING; AND
- 21 3. THE NAME AND TELEPHONE NUMBER OF THE
22 PERSON TO CONTACT FOR ADDITIONAL INFORMATION.

23 (4) IN FILING A SUIT UNDER THIS SECTION, THE ~~PLAINTIFF~~
24 STATE'S ATTORNEY SHALL CERTIFY TO THE COURT:

25 (I) WHAT STEPS THE ~~PLAINTIFF~~ STATE'S ATTORNEY HAS
26 TAKEN TO SATISFY THE NOTICE REQUIREMENTS UNDER THIS SUBSECTION; AND

1 **(II) THAT EACH CONDITION PRECEDENT TO THE FILING OF**
2 **AN ACTION UNDER THIS SECTION HAS BEEN MET.**

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

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

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

14 **(I) THE OWNER AND TENANT ARE PARTIES TO THE ACTION;**
15 **AND**

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

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

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

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

29 **(II) THE OWNER KNEW OR SHOULD HAVE KNOWN OF THE**
30 **EXISTENCE OF THE NUISANCE.**

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

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

11 ~~(2) THIS SECTION MAY NOT BE CONSTRUED AS GRANTING~~
 12 ~~STANDING FOR AN ACTION;~~

13 ~~(I) CHALLENGING ANY ZONING APPLICATION OR~~
 14 ~~APPROVAL;~~

15 ~~(II) IN WHICH THE ALLEGED NUISANCE CONSISTS OF:~~

16 ~~1. A CONDITION RELATING TO LEAD PAINT; OR~~

17 ~~2. AN INTERIOR PHYSICAL DEFECT OF A PROPERTY;~~

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

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

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 28 October 1, 2007.