

## Chapter 602

(House Bill 826)

AN ACT concerning

### Carroll County – Abatement of Nuisances

FOR the purpose of altering the number of days' advance notice the County Commissioners of Carroll County must give to an owner or occupant of property before removing a certain nuisance or menace; authorizing a property owner or occupant to file an appeal of a certain determination that a nuisance or menace exists to a certain hearing officer or board of appeals within a certain time after receiving notice of the determination under certain circumstances; requiring a hearing officer or board of appeals to hold a certain hearing and issue a certain written decision on the determination of the existence of a nuisance or menace within a certain period of time after receiving an appeal; providing that a decision of a hearing officer or board of appeals that a nuisance or menace to public health or safety exists for certain reasons is final and binding; altering a provision that limits the removal of weeds on certain property to the removal of weeds on land that is within a certain number of feet from the boundary with residential property and that is used for certain purposes; defining certain terms; making conforming changes; and generally relating to the abatement of nuisances in Carroll County.

BY repealing and reenacting, with amendments,

The Public Local Laws of Carroll County

Section 3-106

Article 7 – Public Local Laws of Maryland

(2004 Edition and July 2010 Supplement, as amended)

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

#### Article 7 – Carroll County

3-106.

(a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “BONA FIDE AGRICULTURAL PURPOSE” MEANS THE USE OF LAND FOR ACTIVE AGRICULTURAL PRODUCTION.

**(II) “BONA FIDE AGRICULTURAL PURPOSE” INCLUDES THE USE OF LAND FOR:**

- 1. ACTIVE PLOWING, TILLAGE, CROPPING, SEEDING, CULTIVATING, OR HARVESTING OF FOOD, FIBER PRODUCTS, OR SIMILAR PRODUCTS;**
- 2. GROWING SOD PRODUCTS, CHRISTMAS TREES, OR OTHER NURSERY PRODUCTS;**
- 3. ACTIVE GRAZING OR RAISING OF LIVESTOCK;**
- 4. AQUACULTURE;**
- 5. BEE PRODUCTION; AND**
- 6. ORCHARDS.**

**(3)** “Notice” means delivering to the owner or occupant of property a written order to abate.

**(4) “RESIDENTIAL PROPERTY” MEANS ANY LOT OR PARCEL OCCUPIED BY A DWELLING WHERE THE DWELLING AREA OR CURTILAGE IS WITHIN 500 FEET OF THE BOUNDING PROPERTY LINE.**

**(b) (1)** The County Commissioners may remove any nuisance or menace to the public health or safety arising from the growth of weeds, the accumulation of refuse, an abandoned well, the presence of stagnant water, or the presence of combustible material after [10] 15 days’ advance notice to the owner or occupant of the property upon which the nuisance or menace is found.

**(2) [The] EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE** growth of weeds may not constitute a nuisance or menace if [the]:

**(I) THE** land on which the weeds are growing is being used for a bona fide agricultural purpose; or [if the]

**(II) THE** land is owned by the County and is specifically designated as a natural regeneration project area.

**(3) (i)** Notice may be given by personal service or by mail.

(ii) If the written order is delivered by mail, notice is effective at the end of the known fifth day after its deposit in the mail to the last known address of the owner or occupant of the property concerned.

(4) If both the owner and occupant of property on which a nuisance or menace is found have been notified of a violation of this subsection more than two times within a 12-month period:

(i) The continuing growth of weeds, accumulation of refuse, presence of stagnant water, or presence of combustible material shall be considered an ongoing violation; and

(ii) **[Additional] EXCEPT AS PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION, ADDITIONAL** notice is not required before the County may take action to abate the nuisance.

**(5) (I) WITHIN 10 BUSINESS DAYS AFTER RECEIVING NOTICE OF A DETERMINATION THAT A NUISANCE OR MENACE EXISTS, THE PROPERTY OWNER OR OCCUPANT MAY FILE AN APPEAL OF THE NUISANCE OR MENACE DETERMINATION TO A HEARING OFFICER OR BOARD OF APPEALS APPOINTED BY THE COUNTY COMMISSIONERS.**

**(II) WITHIN 5 DAYS AFTER RECEIVING THE APPEAL, THE HEARING OFFICER OR BOARD OF APPEALS SHALL HOLD A HEARING AND ISSUE A WRITTEN DECISION THAT AFFIRMS, MODIFIES, OR OVERTURNS THE DETERMINATION OF THE EXISTENCE OF A NUISANCE OR MENACE.**

**(III) THE DECISION OF THE HEARING OFFICER OR BOARD OF APPEALS REGARDING THE DETERMINATION OF THE EXISTENCE OF A NUISANCE OR MENACE SHALL BE FINAL AND BINDING.**

(c) If the County Commissioners remove any nuisance or menace to the public health or safety as described in subsection (b), the reasonable costs of the removal shall be assessed against the property as a special tax.

(d) A property owner aggrieved by the assessment of a special tax against his property, as provided in this section, may petition the County Commissioners for relief. Upon the receipt of a petition, the County Commissioners shall conduct a hearing within 30 days of the receipt to determine the propriety and reasonableness of the assessment. At the hearing, the burden shall be upon the petitioner to show good cause why the assessment should not be made. The assessment shall be added to the annual tax bill against the property to be collected in the same manner as ordinary taxes are collected and subject to the same interest and penalty for nonpayment, as provided by law for the nonpayment of county taxes. The special tax shall constitute a lien against the property from the date of assessment until paid.

(e) For properties [larger than 1 acre] **USED FOR BONA FIDE AGRICULTURAL PURPOSES**, removal of weeds, as contemplated by this section, shall be limited to the removal of any weeds **[within] ON LAND THAT IS:**

(1) **WITHIN** 50 feet of the nearest property lines bounding **[the] A RESIDENTIAL property [on which the weeds are found to constitute a nuisance or menace to the public health or safety]; AND**

(2) (I) **USED FOR A BUFFER, A FENCE LINE, OR FALLOW GROUND; OR**

(II) **NOT PART OF AN AREA USED FOR ACTIVE AGRICULTURAL PRODUCTION.**

(f) The determination by the County Health Officer that a nuisance or menace to the public health or safety exists by reason of the growth of weeds, accumulation of refuse, an abandoned well, the presence of stagnant water, or the presence of combustible material shall **[be final and]** constitute *prima facie* proof that the nuisance or menace exists. It shall be the duty of the County Health Officer to investigate all complaints of a nuisance or menace to the public health or safety, as described in this section.

(g) If for any reason the County Health Officer refuses or fails to investigate a complaint of nuisance due to the growth of weeds, the County may investigate the complaint and may, on a determination that the vegetation is lawn or weeds and is at or exceeds a height of 12 inches, determine the growth to be weeds which constitute a nuisance under the provisions of this section.

(h) Lands that are enrolled in a State or Federal program that removes the land from crop production for a specified period of time and that has caused the lands to be established and maintained in plant cover to conserve soil, improve wildlife habitat, or serve other public benefit purposes may not be determined to have on them the growth of weeds for purposes of this section. The responsibility for undesirable plant control of these lands shall be that of the State or Federal agency administering the applicable program.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

**Approved by the Governor, May 19, 2011.**