

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 931 (Delegate Carter, *et al.*)
Environmental Matters

Local Governments - Real Property - Healthy Properties and Urban Renewal

This bill requires a local government, within 12 months of acquiring real property, to satisfy the requirements of any applicable State or local nuisance laws, and either (1) ensure that any building on the real property satisfies any applicable building code; or (2) demolish the building. If the local government does not take either of the aforementioned actions, then the local government must either (1) sell the real property to an individual who has a beneficial record of real property ownership or tenancy; or (2) sell to a corporation or organization that is dedicated to urban renewal. The person or entity designated by the municipal corporation to approve a contract of sale is responsible for determining whether an individual has a beneficial record of ownership or tenancy or whether a corporation or organization is dedicated to urban renewal. The requirements of the bill apply to a municipal corporation that derives home rule authority from Article XI-E of the Maryland Constitution and to Baltimore City.

Fiscal Summary

State Effect: The bill's changes can be implemented by the Judiciary with existing resources.

Local Effect: Expenditures significantly increase due to costs associated with the rehabilitation, demolition, or conveyance of vacant structures. Revenues are not affected.
This bill imposes a mandate on a unit of local government.

Small Business Effect: None.

Analysis

Current Law:

Nuisance

The concept of a “nuisance” originates under common law as something that causes offense, annoyance, trouble, or injury. A private nuisance obstructs the rights of a specific individual or group, while a public nuisance is an act or omission that obstructs, damages, or inconveniences the rights of the community.

Several types of nuisances are specifically addressed in State law. The Secretary of Agriculture responds to complaints of agriculture-related nuisances, such as nuisance birds and weeds. Under Criminal Law, a person may not keep a “common nuisance” – defined as a dwelling, building, vehicle, vessel, aircraft, or other place used by individuals to administer illegally controlled dangerous substances or where controlled dangerous substances or controlled paraphernalia are manufactured, distributed, dispensed, stored, or concealed illegally. The Maryland Department of the Environment may order an owner or a county, municipal corporation, sanitary district, subdivision, or locality in charge of a water supply system, sewerage system, or refuse disposal system to alter, extend, or install a new system if the department determines that the system is a menace to health or comfort or is causing a nuisance. The Secretary of the Environment may enter on and inspect any private property to determine whether a nuisance exists and may bring an action to enjoin any person from committing any nuisance. If a health officer investigates and finds a nuisance, the health officer is required to serve a written notice to the person who is causing the nuisance, ordering the person to abate the nuisance within a specified period of time. The Secretary of the Environment is further authorized to summarily abate certain nuisances that pose a threat to public health. The importation, selling, trading, purchasing, bartering, breeding, raising, keeping, or possession of any animals found to be dangerous to human health and safety is prohibited and the animal is considered a nuisance.

Nuisances are also subject to regulation under the Health-General Article. The Secretary of Health and Mental Hygiene or a local health officer may investigate a suspected nuisance and devise methods for control of the nuisance, including entering on and inspecting any private property to determine whether a nuisance exists. If, after notice, the nuisance is not abated, the Secretary, local health officer, or the representative of the Secretary or local health officer must enter the property and do any work and use any materials necessary to abate the nuisance at the expense of the owner, occupant, or tenant of the property.

The Department of Natural Resources is authorized to enter and inspect property to determine whether a nuisance exists from the presence of a nonnative aquatic organism. The department may serve an abatement order on the owner of the property, and if the nuisance is not abated, may enter the property to abate the nuisance at the owner's expense.

In Baltimore City and Anne Arundel, Baltimore, Howard, and Prince George's counties, a community association, State's Attorney, county attorney, or local city attorney may bring an action to abate a nuisance based on a local code violation. Each county board of health is authorized to adopt and enforce rules and regulations on any nuisance or cause of disease in the county.

Building Codes: In Maryland, local governments have the primary role in enforcing building and construction codes. In State law, the Department of Housing and Community Development is authorized to adopt a Model Performance Code for building construction in the State. The Model Performance Code for building construction is not binding on a subdivision of the State unless the subdivision specifically adopts it. A part of the Model Performance Code that relates to structure incorporates by reference the Maryland Building Performance Standards. The department is required to adhere to the Maryland Building Performance Standards and the International Building Code, including the International Energy Conservation Code with modifications adopted by the department. A local jurisdiction may adopt amendments to the standards if the amendments are more stringent than the standards.

Background: A nuisance on real property can pose a risk to public health and safety as well as be an annoyance to neighbors or passers-by. Vacant real property is at particular risk for developing dangerous or annoying conditions. Vacant housing and urban blight is a growing concern to Maryland's urban centers. Baltimore City has approximately 16,000 vacant buildings, roughly 25% of which are city-owned. Baltimore Housing estimates that more than 5,700 of the vacant structures are in areas with existing or emerging development demand.

Local Expenditures: Many of the municipal corporations in Maryland do not acquire property intended for uses other than governmental use. However, larger municipal corporations and Baltimore City frequently purchase buildings to redevelop blighted areas. In fiscal 2010, Baltimore City acquired 290 vacant structures. In total, Baltimore City estimates that it owns nearly 2,500 vacant buildings in distressed areas identified either for active redevelopment or being held for potential redevelopment. Demolition costs for these buildings are estimated to be around \$12,000 each and over \$30 million in total.

Baltimore City also advises that there are approximately 215 city-owned vacant buildings in areas with market potential. If the city owns a vacant building in an area with market potential, it attempts to convey the property to developers who complete the rehabilitation. To comply with the bill, the city must either convey these properties or rehabilitate the property itself. Baltimore City estimates the costs of rehabilitating these properties would exceed \$25 million, with approximately \$125,000 allocated to each property.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Kent, Montgomery, Washington, and Worcester counties; towns of Bel Air and Leonardtown; City of Salisbury; Baltimore City; Maryland Department of Planning; Judiciary (Administrative Office of the Courts); Maryland Association of Counties; Maryland Municipal League; Department of Legislative Services

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