

## Chapter 181

(Senate Bill 130)

AN ACT concerning

### Baltimore City – Nuisance Abatement and Local Code Enforcement – Community Associations

FOR the purpose of altering the definition of “community association” under certain provisions of law relating to the standing of certain community associations in Baltimore City to seek judicial relief for abatement of certain nuisances; altering the definition of “nuisance” to repeal a certain requirement that a local code violation must diminish the value of neighboring property; altering the definition of “local code violation” to correct references to certain provisions of the Baltimore City Code; prohibiting a community association from filing an action if the community association receives certain information from a certain department regarding an active code enforcement plan; repealing a certain requirement that a community association must file a bond with the court before seeking nuisance abatement; repealing a certain provision that a community association may not be construed to have standing to pursue a nuisance action concerning a vacant dwelling that is boarded up, free from trash and debris, and secure against entry; and generally relating to the right of community associations in Baltimore City to seek judicial abatement of certain nuisances.

BY repealing and reenacting, with amendments,  
Article – Real Property  
Section 14–123  
Annotated Code of Maryland  
(2010 Replacement Volume and 2011 Supplement)

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

#### Article – Real Property

14–123.

(a) (1) In this section the following words have the meanings indicated.

(2) “Community association” means [a Maryland nonprofit association, corporation, or other organization that:

(i) Is comprised of at least 25 households or 25% of the households, whichever is less, of a local neighborhood consisting of 40 or more individual households as defined by specific geographic boundaries in the bylaws or charter of the association;

(ii) Requires, as a condition of membership, the voluntary payment of monetary dues at least annually;

(iii) Is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;

(iv) Has been in existence for at least 2 years when it files suit under this section;

(v) 1. Is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code; or

2. Has been included for a period of at least 2 years prior to bringing an action under this section in Baltimore City's Community Association Directory published by the Baltimore City Department of Planning; and

(vi) In the case of a Maryland corporation, is in good standing];

**(I) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT IS:**

**1. COMPOSED OF RESIDENTS OF A COMMUNITY WITHIN WHICH A NUISANCE IS LOCATED;**

**2. OPERATED EXCLUSIVELY FOR THE PROMOTION OF SOCIAL WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND ENHANCEMENT; AND**

**3. EXEMPT FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE; OR**

**(II) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT IS:**

**1. COMPOSED OF RESIDENTS OF A CONTIGUOUS COMMUNITY THAT IS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES, WITHIN WHICH A NUISANCE IS LOCATED; ~~AND~~**

**2. OPERATED FOR THE PROMOTION OF THE WELFARE, IMPROVEMENT, AND ENHANCEMENT OF THAT COMMUNITY; AND**

**3. IN GOOD STANDING WITH THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.**

(3) "Local code violation" means a violation under the following provisions of the Baltimore City Code as amended from time to time or under any applicable code relating to the following provisions incorporated by Baltimore City by reference:

~~(i) The Fire Prevention Code under Article 9;~~

~~(ii) Animal control, nuisance and disease prevention, and noise control subheadings of Article 11 (Health);~~

~~(iii) The Housing Code under Article 13;~~

~~(iv) Public nuisance provisions under Article 19;~~

~~(v) Article 23;~~

~~(vi) The Building Code of Baltimore City, Article 32; and~~

~~(vii) The zoning ordinance of Baltimore City, Article 30.~~

**(I) NUISANCE CONTROL, WASTE CONTROL, AND NOISE REGULATION TITLES OF THE HEALTH CODE OF BALTIMORE CITY;**

**(II) THE PUBLIC NUISANCE AND NEIGHBORHOOD NUISANCE PROVISIONS UNDER CITY CODE ARTICLE 19, POLICE ORDINANCES;**

**(III) CITY CODE ARTICLE 23, SANITATION;**

**(IV) THE BUILDING, FIRE, AND RELATED CODES OF BALTIMORE CITY; OR**

**(V) THE ZONING CODE OF BALTIMORE CITY.**

(4) "Nuisance" means, within the boundaries of the community represented by the community association, an act or condition knowingly created, performed, or maintained on private property that constitutes a local code violation and that:

(i) Significantly affects other residents of the neighborhood;

AND

(ii) [Diminishes the value of neighboring property; and

(iii)] 1. Is injurious to public health, safety, or welfare of neighboring residents; or

2. Obstructs the reasonable use of other property in the neighborhood.

(b) This section only applies to a nuisance located within the boundaries of Baltimore City.

(c) (1) A community association may seek injunctive and other equitable relief in the circuit court for abatement of a nuisance upon showing:

(i) The notice requirements of this subsection have been satisfied; and

(ii) The nuisance has not been abated.

(2) (i) 1. An action may not be brought under this section until 60 days after the community association sends notice of the violation and of the community association's intent to bring an action under this section by certified mail, return receipt requested, to the appropriate code enforcement agency.

**2. IF THE APPROPRIATE CODE ENFORCEMENT AGENCY IS THE BALTIMORE CITY DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AN ACTION UNDER THIS SECTION MAY NOT BE BROUGHT IF THE DEPARTMENT PROVIDES A WRITTEN RESPONSE TO THE COMMUNITY ASSOCIATION WITHIN 60 DAYS OF RECEIVING THE NOTICE THAT THE PROPERTY IS PART OF AN ACTIVE CODE ENFORCEMENT PLAN.**

(ii) An action under this section may not be brought if the appropriate code enforcement agency has filed an action for equitable relief from the nuisance.

(3) (i) An action may not be brought under this section until 60 days after the community association sends notice to the tenant, if any, and the owner of record that a nuisance exists and that legal action may be taken if the nuisance is not abated.

(ii) The notice shall specify:

1. The nature of the alleged nuisance;

2. The date and time of day the nuisance was first discovered;
3. The location on the property where the nuisance is allegedly occurring; and
4. The relief sought in the action.

(iii) 1. The notice shall be provided to the tenant, if any, and the owner of record in the same manner as service of process in a civil in personam action under the Maryland Rules.

2. Adequate and sufficient notice may be given to the tenant, if any, and the owner of record by sending a copy of the notice by regular mail and posting a copy of the notice on the property where the nuisance is allegedly occurring, if notice sent by certified mail is:

- A. Returned unclaimed or refused;
- B. Designated by the post office to be undeliverable for any other reason; or
- C. Signed for by a person other than the addressee.

(iv) In filing a suit under this section, an officer of the community association shall certify to the court:

1. What steps the community association has taken to satisfy the notice requirements under this subsection; and
2. That each condition precedent to the filing of an action under this section has been met.

(4) [Relief may not be provided under this section unless the community association files with the court a bond in an amount determined by the court and with a surety approved by the court, conditioned to answer to the adverse party for any costs the party may sustain as a result of the suit, including reasonable attorney fees, if the court finds that the action was filed in bad faith or without substantial justification.

(5) (i) An action may not be brought against an owner of residential rental property unless, prior to the giving of notice under subsection (c)(3)(i) of this section, a notice of violation relating to the nuisance has first been issued by an appropriate code enforcement agency.

(ii) In the case of a nuisance based on a housing or building code violation, other than a recurrent sanitation violation, relief may not be granted under this section unless a violation notice relating to the nuisance has been issued by the Department of Housing and Community Development and remains outstanding after a period of 75 days.

**[(6)] (5)** (i) If a violation notice is an essential element of the action, a copy of the notice signed by an official of the appropriate code enforcement agency shall be prima facie evidence of the facts contained in the notice.

(ii) A notice of abatement issued by the appropriate code enforcement agency in regard to the violation notice shall be prima facie evidence that the plaintiff is not entitled to the relief requested.

**[(7)] (6)** A proceeding under this section shall:

- (i) Take precedence on the docket;
- (ii) Be heard at the earliest practicable date; and
- (iii) Be expedited in every way.

(d) A political subdivision of the State or any agency of a political subdivision may not be subject to any action brought under this section or an action resulting from an action brought under this section against a private property owner.

(e) (1) Subject to paragraph (2) of this subsection, this section may not be construed as to abrogate any equitable or legal right or remedy otherwise available under the law to abate a nuisance.

(2) This section may not be construed as to grant standing for an action:

- (i) Challenging any zoning application or approval;
- (ii) In which the alleged nuisance consists of:
  1. A condition relating to lead paint; **OR**
  2. An interior physical defect of a property]; or
  3. A vacant dwelling that is maintained in a boarded condition, free from trash and debris, and secure against trespassers and weather entry];

(iii) Involving any violation of alcoholic beverages laws under Article 2B of the Code; or

(iv) Involving any matter in which a certificate, license, permit, or registration is required or allowed under the Environment Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

**Approved by the Governor, May 2, 2012.**