

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 1206 (Delegate Wilson)  
Environmental Matters

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Charles County - Nuisance Actions - Community Associations

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This bill authorizes a community association to seek injunctive and other equitable relief in circuit court for the abatement of a specified nuisance located in Charles County.

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Fiscal Summary

**State Effect:** The bill does not have a direct effect on State governmental operations or finances.

**Local Effect:** Charles County revenues may increase due to additional filing, mediation, and hearing fees. Expenditures may increase to the extent that additional community associations submit additional cases for hearing before the Charles County's Homeowners Association Dispute Review Board. Any increase in revenues and expenditures is not quantifiable but is not expected to be significant. The number of cases heard in the Charles County circuit court may increase, but such an increase is likely to be minimal and will not significantly impact its operations or finances.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill authorizes a community association to seek injunctive and other equitable relief for the abatement of a nuisance involving violations of the following provisions of the Charles County Code:

- Building Code under Chapter 15;
- Garbage Transportation and Disposal under Chapter 58;

- Nuisances under Chapter 85;
- Animal Regulations under Chapter 230; and
- Noise Control under Chapter 260.

The bill applies the law relating to the abatement of a nuisance in Prince George's County by a community association to the abatement of a nuisance in Charles County.

**Current Law/Background:**

*In General:* The concept of a “nuisance” originates under common law and is 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, including:

- the presence of mosquitoes, pests, and noxious weeds (Agriculture Article);
- dwellings, buildings, vehicles, vessels, aircraft, or any other place(s) used by individuals to administer illegally controlled substances or where controlled dangerous substances or controlled substances or controlled paraphernalia are manufactured, distributed, dispensed, stored, or concealed illegally (Criminal Law Article);
- nuisances that affect public health, including those involving plumbing, drainage, water supplies, and disposal of any waste material (Environment Article);
- all nuisances affecting the sanitary interests of the people of the State, including an inadequately protected swimming pool, a foul pigpen, a dead animal, a contaminated water supply, a rodent harborage, and an excessive accumulation of trash or garbage (Health-General Article);
- the presence of nonnative aquatic organisms (Natural Resources Article)
- property that is used for the administration, manufacture, distribution, or storage of a controlled dangerous substance or paraphernalia (Real Property Article); and
- property used for prostitution (Real Property Article).

Each department charged with abating the above nuisances is authorized to enter onto private property to determine its existence.

Additionally, each county board of health is authorized to adopt and enforce rules and regulations on any nuisance or cause of disease in the county. If a county 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.

*Community Associations in Prince George's County:* A community association within Prince George's County may seek injunctive and other equitable relief in the circuit court for the abatement of a nuisance once it complies with the specified notice requirements. A community association means a Maryland nonprofit association, corporation in good standing, or other organization that is located exclusively in an area of the county that is outside of a municipal corporation and (1) comprises at least 25% of adult residents of a local community consisting of 40 or more individual, contiguous households as defined by specific geographic boundaries in the bylaws or charter of the association; (2) requires, as a condition of membership, the voluntary payment of monetary dues at least annually; (3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement; (4) has been in existence for at least two years when it files an action to abate a nuisance; and (5) is an Internal Revenue Service tax-exempt organization.

A 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. A local code violation is a violation of the following provisions in the Prince George's County Code:

- Animal control regulations under Subtitle 3;
- Building Code under Subtitle 4, Division 1;
- Fire Prevention Code under Subtitle 11, Division 4;
- Pest control provisions under Subtitle 12, Division 5;
- Housing Code, property standards and maintenance, and antilitter and weed ordinance, under Subtitle 13, Divisions 1, 7, and 9, respectively;
- Sewage disposal nuisances under Subtitle 22, Division 3, Subdivision 3; and
- Abandoned vehicles under Subtitle 26, Division 14.

The local code violation must significantly affect other residents of the neighborhood, negatively impact the value of neighboring property, and either be injurious to public, health, safety, or welfare of neighboring residents or obstruct the reasonable use of other neighborhood property.

The community association must wait to bring an action until 60 days after the tenant, if any, and any owner of record receive notice of the nuisance and its intention to bring an action to both the appropriate code enforcement agency and the property's tenant, if any, and owner.

*Community Associations in Other Jurisdictions:* In Anne Arundel, Baltimore, and Harford counties and Baltimore City a community association may bring an action to abate a nuisance based on a local code violation. Each county or city has a slightly  
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different definition for a community association; however, each requires that a community association operate primarily for the promotion of social welfare and general neighborhood improvement and enhancement, be in existence for at least one year, and be tax-exempt under the Internal Revenue Code.

**Local Fiscal Effect:** Charles County revenues and expenditures may increase to the extent that a community association filing for equitable relief causes an increase in the number of cases heard before Charles County's Homeowners Association Dispute Review Board. Charles County advises that the complaint filing fee is \$117, the mediation fee is \$171, and the hearing fee is \$425. The county also advises that it typically spends approximately \$330 for each complaint filed. The increase in revenues and expenditures is not quantifiable but is not expected to be significant. There may be an increase in the number of nuisance actions heard in the Charles County circuit court; however, the impact is not expected to significantly impact court operations or finances.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Charles County, Office of the Attorney General (Consumer Protection Division), Judiciary (Administrative Office of the Courts), Secretary of State, Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2012  
mlm/kdm

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