

HOUSE BILL 217

N1
HB 320/18 – ENV

9lr0660

By: **Delegate Sydnor**

Introduced and read first time: January 23, 2019

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County – Nuisance Actions – Community Association Standing**

3 FOR the purpose of altering the definitions of “community association” and “local code
4 violation” for purposes of certain provisions of law authorizing community
5 associations to seek judicial relief for nuisance abatement in Baltimore County;
6 repealing a provision of law requiring a certain court to determine in what amount
7 and under what conditions a bond must be filed by a community association in a
8 certain nuisance action; and generally relating to the right of community
9 associations to seek judicial relief for nuisance abatement in Baltimore County.

10 BY repealing and reenacting, with amendments,
11 Article – Real Property
12 Section 14–125
13 Annotated Code of Maryland
14 (2015 Replacement Volume and 2018 Supplement)

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

Article – Real Property

18 14–125.

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

20 (2) “Community association” means a Maryland nonprofit **ASSOCIATION**,
21 corporation, **OR OTHER ORGANIZATION** that **IS**:

22 (i) [Is comprised of at least 20% of the total number of households
23 as members, with a minimum membership of 25 households, of a local community that

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 consists of 40 or more individual households as defined by specific geographic boundaries
 2 in the bylaws or charter of the community association] **COMPOSED OF RESIDENTS OF A**
 3 **COMMUNITY DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN THE BYLAWS OR**
 4 **CHARTER OF THE COMMUNITY ASSOCIATION AND WITHIN WHICH A NUISANCE IS**
 5 **LOCATED;**

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

8 (iii) Is operated] **OPERATED** primarily for the promotion of social
 9 welfare and general neighborhood improvement and enhancement;

10 [(iv) Has been in existence for at least 1 year when it files suit under
 11 this section;

12 (v) 1.] **(III)** [Is exempt] **EXEMPT** from taxation under §
 13 501(c)(3) or (4) **OR § 528** of the Internal Revenue Code; [or

14 2. Has been included for a period of at least 1 year prior to
 15 bringing an action under this section in the “Directory of Organizations in Baltimore
 16 County” that is published by the Baltimore County Public Library;] and

17 [(vi)] **(IV)** [Is] **INCORPORATED AND** in good standing **WITH THE**
 18 **STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.**

19 (3) **(I)** “Local code violation” means a violation under **ARTICLE 13,**
 20 **Title [22.] 7. “Nuisances” OR, EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
 21 **PARAGRAPH, ARTICLE 35, “BUILDING AND HOUSING”** of the Baltimore County Code
 22 **[1988] 2015.**

23 **(II) “LOCAL CODE VIOLATION” DOES NOT INCLUDE A**
 24 **VIOLATION UNDER ARTICLE 35, TITLE 4. “RENT ESCROW LAW” OF THE BALTIMORE**
 25 **COUNTY CODE 2015.**

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

29 (i) Negatively impacts the well-being of other residents of the
 30 neighborhood; and

31 (ii) 1. Is injurious to public health, safety, or welfare of
 32 neighboring residents; or

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

1 neighborhood.

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

4 (c) (1) A community association may seek injunctive and other equitable relief
5 in the Circuit Court for Baltimore County for abatement of a nuisance upon showing that:

6 (i) The notice requirements under paragraphs (2) and (3) of this
7 subsection have been satisfied; and

8 (ii) The nuisance has not been abated.

9 (2) (i) An action may not be brought under this section based on a
10 nuisance until 60 days after the community association gives notice of the violation and of
11 the community association's intent to bring an action under this section by certified mail,
12 return receipt requested, to the County Code enforcement agency.

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

15 (3) (i) An action may not be brought under this section until 60 days
16 after the tenant, if any, and owner of record receive notice by certified mail, return receipt
17 requested, from the community association that a nuisance exists and that legal action may
18 be taken if the nuisance is not abated.

19 (ii) The notice shall specify:

20 1. The nature of the alleged nuisance;

21 2. The date and time of day the nuisance was first
22 documented;

23 3. The location on the property where the nuisance is
24 allegedly occurring; and

25 4. The relief sought.

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

28 1. What steps the community association has taken to satisfy
29 the notice requirements under this subsection; and

30 2. That each condition precedent to the filing of an action
31 under this section has been met.

1 [(4) The court shall determine in what amount and under what conditions,
2 if any, a bond shall be filed by a community association in an action for relief under this
3 section.]

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

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

10 (2) This section may not be construed as granting standing for an action:

11 (i) Challenging any zoning, development, special exception, or
12 variance application or approval;

13 (ii) In which the alleged nuisance consists of:

14 1. A condition relating to lead paint;

15 2. An interior physical defect of a property, except in
16 situations that present a threat to neighboring properties; or

17 3. A vacant dwelling that is maintained in a boarded
18 condition, free from trash and debris, and secure against trespassers and weather entry;

19 (iii) Involving any violation of alcoholic beverages laws under the
20 Alcoholic Beverages Article; or

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

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2019.