N1 HB 320/18 – ENV 9lr0660

## By: **Delegate Sydnor <u>Baltimore County Delegation</u>** Introduced and read first time: January 23, 2019

Assigned to: Environment and Transportation

Committee Report: Favorable with amendments House action: Adopted Read second time: March 12, 2019

CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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

# 17 Article – Real Property

- 18 14–125.
- 19 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



means a Maryland nonprofit

"Community association"

ASSOCIATION, corporation, OR OTHER ORGANIZATION that IS:

 $\mathbf{2}$ 

(2)

**(I)** 

 $\mathbf{2}$ 

3 4 5 6 7 8 9	(i) <u>1.</u> [Is comprised of at least 20% of the total number of households as members, with a minimum membership of 25 households, of a local community that consists of 40 or more individual households as defined by specific geographic boundaries in the bylaws or charter of the community association] COMPOSED OF RESIDENTS OF A COMMUNITY DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES IN THE BYLAWS OR CHARTER OF THE COMMUNITY ASSOCIATION AND WITHIN WHICH A NUISANCE IS LOCATED;					
10 11	(ii) <u>2.</u> [Requires, as a condition of membership, the payment of monetary dues at least annually;					
$\begin{array}{c} 12\\ 13 \end{array}$	(iii) Is operated] <b>OPERATED</b> primarily for the promotion of social welfare and general neighborhood improvement and enhancement;					
$\begin{array}{c} 14 \\ 15 \end{array}$	[(iv) Has been in existence for at least 1 year when it files suit under this section;					
$\begin{array}{c} 16 \\ 17 \end{array}$	(v) 1.] <del>(III)</del> <u>3.</u> [Is exempt] <b>EXEMPT</b> from taxation under § 501(c)(3) or (4) <b>OR § 528</b> of the Internal Revenue Code; [or					
18 19 20	2. Has been included for a period of at least 1 year prior to bringing an action under this section in the "Directory of Organizations in Baltimore County" that is published by the Baltimore County Public Library;] and					
$\begin{array}{c} 21 \\ 22 \end{array}$	[(vi)] <del>(IV)</del> <u>4.</u> [Is] <b>INCORPORATED AND</b> in good standing <b>WITH</b> <b>THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION</b> .					
$\begin{array}{c} 23\\ 24 \end{array}$	(II) <u>"Community association" includes a Maryland</u> <u>Nonprofit association, corporation, or other organization that:</u>					
$\frac{25}{26}$	<u>1. MEETS THE REQUIREMENTS OF AN INDIVIDUAL</u> <u>COMMUNITY ASSOCIATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND</u>					
27	2. <u>Represents two or more individual community</u>					

28 ASSOCIATIONS.

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

1 (II) "LOCAL CODE VIOLATION" DOES NOT INCLUDE A 2 VIOLATION UNDER ARTICLE 35, TITLE 4. "RENT ESCROW LAW" OF THE BALTIMORE 3 COUNTY CODE 2015.

4 (4) "Nuisance" means, within the boundaries of the community 5 represented by the community association, an act or condition created, performed, or 6 maintained on private property that constitutes a local code violation and that:

7 (i) Negatively impacts the well-being of other residents of the 8 neighborhood; and

9 (ii) 1. Is injurious to public health, safety, or welfare of 10 neighboring residents; or

112.Obstructs the reasonable use of other property in the12neighborhood.

13 (b) This section only applies to a nuisance located within the boundaries of 14 Baltimore County.

15 (c) (1) A community association may seek injunctive and other equitable relief 16 in the Circuit Court for Baltimore County for abatement of a nuisance upon showing that:

17 (i) The notice requirements under paragraphs (2) and (3) of this 18 subsection have been satisfied; and

19

(ii) The nuisance has not been abated.

20 (2) (i) An action may not be brought under this section based on a 21 nuisance until 60 days after the community association gives notice of the violation and of 22 the community association's intent to bring an action under this section by certified mail, 23 return receipt requested, to the County Code enforcement agency.

(ii) An action under this section may not be brought if the CountyCode 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 tenant, if any, and owner of record receive notice by certified mail, return receipt
requested, from the community association that a nuisance exists and that legal action may
be taken if the nuisance is not abated.

30		(ii)	The notice shall specify:					
31			1.	he nature of the alleged nu	uisance;			
32 $33$	documented;		2.	he date and time of c	day the	nuisance	was	first

$\frac{1}{2}$	3. The location on the property where the nuisance is allegedly occurring; and					
3	4. The relief sought.					
4 5	(iii) In filing a suit under this section, an officer of the community association shall certify to the court:					
$6 \\ 7$						
8 9						
$10 \\ 11 \\ 12$	[(4) The court shall determine in what amount and under what conditions, if any, a bond shall be filed by a community association in an action for relief under this section.]					
$\begin{array}{c} 13\\14\\15\end{array}$	not subject to any action brought under this section or an action resulting from an action					
16 17 18	construed to abrogate any equitable or legal right or remedy otherwise available under the					
19	(2) This section may not be construed as granting standing for an action:					
$\begin{array}{c} 20\\ 21 \end{array}$	(i) Challenging any zoning, development, special exception, or variance application or approval;					
22	(ii) In which the alleged nuisance consists of:					
23	1. A condition relating to lead paint;					
$\begin{array}{c} 24 \\ 25 \end{array}$	2. An interior physical defect of a property, except in situations that present a threat to neighboring properties; or					
$\frac{26}{27}$	3. A vacant dwelling that is maintained in a boarded condition, free from trash and debris, and secure against trespassers and weather entry;					
$\begin{array}{c} 28\\ 29 \end{array}$	(iii) Involving any violation of alcoholic beverages laws under the Alcoholic Beverages Article; or					
$\begin{array}{c} 30\\ 31 \end{array}$	(iv) Involving any matter in which a certificate, license, permit, or registration is required or allowed under the Environment Article.					

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.