

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1067 (Delegate Rosenberg)
Environment and Transportation

Real Property - Nuisance Abatement - Penalties for Owners of Commercial
Property

This bill specifies that (1) if the court determines that a nuisance exists on commercial property, the owner of the commercial property is subject to a civil penalty of up to \$1,000 per violation and (2) each day that the nuisance exists on the commercial property is a separate violation.

Fiscal Summary

State Effect: General fund revenues increase minimally as a result of civil fines imposed in the District Court. The bill's requirements can be met with existing resources.

Local Effect: The bill is not anticipated to affect local government finances or operations.

Small Business Effect: Potential meaningful.

Analysis

Current Law: In the context of an action for the abatement of nuisance where a property is used for criminal activity, "nuisance" means a property that is used:

- by persons who assemble for the specific purpose of illegally administering a controlled dangerous substance (CDS);
- for the illegal manufacture or distribution of a CDS or controlled paraphernalia;

- for the illegal storage or concealment of a CDS in an amount that indicates an intent to manufacture, distribute, or dispense a CDS or controlled paraphernalia; or
- for prostitution.

Also in the context of an action for the abatement of nuisance where a property is used for criminal activity, “commercial property” does not include residential rental property, “owner” includes an owner-occupant, and “owner-occupant” includes an owner of commercial property that conducts business in any part of the property.

Jurisdiction, Plaintiffs, Defendants, and Notice

Generally, the District Court has exclusive and original jurisdiction in a petition of injunction filed by a person for the abatement of a nuisance where property is used for criminal activity. A civil action to abate a nuisance may be brought in the District Court under § 4-401 of the Courts and Judicial Proceedings Article by (1) the State’s Attorney of the county in which the nuisance is located; (2) the county attorney or solicitor of the county in which the nuisance is located; (3) a community association within whose boundaries the nuisance is located; or (4) a municipal corporation within whose boundaries the nuisance is located. The action may be brought against (1) a tenant of the property where the nuisance is located; (2) an owner of the property where the nuisance is located; or (3) an operator of the property where the nuisance is located. Before filing an action, specified notice and timeliness requirements must be met.

Remedies

After a hearing, if the court determines that a nuisance exists, the court may order any appropriate injunctive or other equitable relief. Notwithstanding any other provision of law, and in addition to or as a component of any remedy ordered by the court, the court may order a tenant who knew or should have known of the existence of the nuisance to vacate the property within 72 hours, or an owner or operator of the property to submit for court approval a plan of correction to ensure that the property will not be used for a nuisance again if (1) the owner or operator is a party to the action and (2) the owner or operator knew or should have known of the existence of the nuisance.

Small Business Effect: Small businesses who own, operate, or lease commercial property may be subject to additional fines imposed by the District Court under the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Association of Counties; Maryland Municipal League; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2019
mm/kdm

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