

# HOUSE BILL 1041

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By: **Delegates Waldstreicher, Anderson, Carter, Gutierrez, Howard, Lee, Levi, Oaks, Ramirez, and Rosenberg**

Introduced and read first time: February 15, 2010

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **The Lead Paint Reduction Act of 2010**

3 FOR the purpose of authorizing certain parties in Baltimore City, Baltimore County,  
4 Prince George's County, and Anne Arundel County to seek monetary damages  
5 for the abatement of certain nuisances under certain circumstances, including a  
6 nuisance consisting of a condition related to lead paint; repealing certain  
7 provisions of law that restrict certain other provisions of law authorizing  
8 nuisance actions from being construed to grant standing for a civil action for a  
9 condition relating to lead paint; and generally relating to nuisance actions in  
10 Baltimore City, Baltimore County, Prince George's County, and Anne Arundel  
11 County.

12 BY repealing and reenacting, without amendments,  
13 Article – Real Property  
14 Section 14–123(a)(1) and (4) and (b), 14–124(a)(1) and (4) and (b), 14–125(a)(1)  
15 and (4) and (b), 14–125.1(a)(1) and (4), (b), and (c)  
16 Annotated Code of Maryland  
17 (2003 Replacement Volume and 2009 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Real Property  
20 Section 14–123(c)(1) and (e), 14–124(c)(1) and (e), 14–125(c)(1) and (e), and  
21 14–125.1(d)(1) and (g)  
22 Annotated Code of Maryland  
23 (2003 Replacement Volume and 2009 Supplement)

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

26 **Article – Real Property**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 14–123.

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

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

7 (i) Significantly affects other residents of the neighborhood;

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

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

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

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

15 (c) (1) A community association may seek **MONETARY DAMAGES OR**  
16 injunctive and other equitable relief in the circuit court for abatement of a nuisance  
17 upon showing:

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

20 (ii) The nuisance has not been abated.

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

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

26 (i) Challenging any zoning application or approval;

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

28 1. [A condition relating to lead paint;

29 2.] An interior physical defect of a property; or

1 [3.] 2. A vacant dwelling that is maintained in a boarded  
2 condition, free from trash and debris, and secure against trespassers and weather  
3 entry;

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

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

8 14–124.

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

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

14 (i) Significantly affects other residents of the neighborhood;

15 (ii) Negatively impacts the value of neighboring property; and

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

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

20 (b) This section only applies to a nuisance located within the boundaries of  
21 Prince George’s County.

22 (c) (1) A community association may seek **MONETARY DAMAGES OR**  
23 injunctive and other equitable relief in the circuit court for abatement of a nuisance  
24 upon showing:

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

27 (ii) The nuisance has not been abated.

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

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

- 1 (i) Challenging any zoning application or approval;
- 2 (ii) In which the alleged nuisance consists of[:
- 3 1. A condition relating to lead paint; or
- 4 2. An] AN interior physical defect of a property;
- 5 (iii) Involving any violation of alcoholic beverages laws under
- 6 Article 2B of the Code; or
- 7 (iv) Involving any matter in which a certificate, license, permit,
- 8 or registration is required or allowed under the Environment Article.

9 14–125.

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

11 (4) “Nuisance” means, within the boundaries of the community

12 represented by the community association, an act or condition created, performed, or

13 maintained on private property that constitutes a local code violation and that:

14 (i) Negatively impacts the well-being of other residents of the

15 neighborhood; and

16 (ii) 1. Is injurious to public health, safety, or welfare of

17 neighboring residents; or

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

19 neighborhood.

20 (b) This section only applies to a nuisance located within the boundaries of

21 Baltimore County.

22 (c) (1) A community association may seek **MONETARY DAMAGES OR**

23 injunctive and other equitable relief in the Circuit Court for Baltimore County for

24 abatement of a nuisance upon showing that:

25 (i) The notice requirements under paragraphs (2) and (3) of this

26 subsection have been satisfied; and

27 (ii) The nuisance has not been abated.

28 (e) (1) Subject to paragraph (2) of this subsection, this section may not be

29 construed to abrogate any equitable or legal right or remedy otherwise available under

30 the law to abate a nuisance.

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

3                   (i) Challenging any zoning, development, special exception, or  
4 variance application or approval;

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

6                               1. [A condition relating to lead paint;

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

9                               [3.] 2. A vacant dwelling that is maintained in a boarded  
10 condition, free from trash and debris, and secure against trespassers and weather  
11 entry;

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

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

16 14–125.1.

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

18                   (4) “Nuisance” means:

19                   (i) An act or condition knowingly created, performed, or  
20 maintained on private property that constitutes a local code violation and that:

21                               1. Significantly affects other residents of the  
22 neighborhood;

23                               2. Diminishes the value of neighboring property; and

24                               3. A. Is injurious to public health, safety, or welfare  
25 of neighboring residents; or

26                               B. Obstructs the reasonable use of other property in the  
27 neighborhood;

28                   (ii) A property where the tenant, owner, or other occupant has  
29 been convicted of violations of § 10–201 or § 10–202 of the Criminal Law Article for  
30 conduct occurring on, in, or in relation to the property; or

1 (iii) A property to which police or other law enforcement agencies  
2 have responded to complaints or calls for service 10 or more times within any 30 day  
3 period.

4 (b) This section only applies to a nuisance located within the boundaries of  
5 Anne Arundel County.

6 (c) An action to abate a nuisance may be brought under this section and  
7 § 4-401 of the Courts Article by:

8 (1) The State's Attorney for Anne Arundel County;

9 (2) The County Attorney for Anne Arundel County;

10 (3) A community association within whose boundaries the nuisance is  
11 located; or

12 (4) The City Attorney for the City of Annapolis.

13 (d) (1) A person specified in subsection (c) of this section may seek  
14 **MONETARY DAMAGES OR** injunctive and other equitable relief in the District Court  
15 for abatement of a nuisance upon showing:

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

18 (ii) The nuisance has not been abated.

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

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

24 (i) Challenging any zoning application or approval;

25 (ii) In which the alleged nuisance consists of[:

26 1. A condition relating to lead paint; or

27 2. An] AN interior physical defect of a property;

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

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

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2010.