

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

House Bill 1507

(St. Mary's County Delegation)

Environmental Matters

Education, Health, and Environmental Affairs

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**St. Mary's County - Property Maintenance**

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This bill authorizes the County Commissioners of St. Mary's County to enact an ordinance prohibiting an owner of real property from allowing or causing the existence, creation, or maintenance of a specified nuisance. The bill authorizes the ordinance to declare that the failure to abate the nuisance is a municipal infraction if the ordinance includes specified provisions.

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially impact the District Court.

**Local Effect:** Local expenditures increase minimally to account for costs associated with notifying owners of real property with a nuisance. Local revenues increase minimally due to an increase in zoning violation fines.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** The ordinance may prohibit a nuisance consisting of structures, premises, or appurtenances with objectively determinable exterior signs of substantial physical deterioration, dilapidation, or lack of maintenance that (1) may be reasonably concluded to significantly depreciate the economic value of properties in the neighborhood or (2) are reasonably determined to be detrimental to the health, safety, or welfare of neighboring properties or their occupants. The bill requires the enacted ordinance to establish standards for a determination of substantial physical deterioration, dilapidation, or lack of maintenance.

The bill authorizes the enacted ordinance to provide for the determination of the existence of a nuisance by an administrative officer of the St. Mary's County government. A determination of the existence of a nuisance by an administrative officer must be deemed to be a determination under Title 4, Subtitle 3 of the Land Use Article, governing local zoning boards of appeals.

If the ordinance imposes a municipal infraction on the failure to abate the nuisance, the ordinance must include provisions for (1) prior notice to a property owner of the existence of the nuisance; (2) a reasonable opportunity to abate the nuisance; and (3) a right to appeal the determination of the existence of the nuisance to the St. Mary's County Board of Appeals before the issuance of a citation. The bill requires a court that enters a finding of a municipal infraction to, on motion by St. Mary's County, enter an order authorizing the county to abate the nuisance. The court must then, on proof of the expense incurred in abating the nuisance, order a lien for the costs of abatement to be imposed on the property that was subject to the abatement.

#### **Current Law:**

*Nuisance:* The concept of "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:

- conditions that are dangerous to health or safety, including an inadequately protected swimming pool, an unprotected open ditch, an unsanitary outhouse, a foul pigpen, an improperly functioning sewage system, an unkempt junkyard or scrap metal processing facility, an excessive accumulation of trash or garbage, a dead animal, a contaminated or inadequately protected water supply, a rodent harborage, poor housekeeping that could endanger an individual's health, or any condition that may endanger health and may be transmitted by means including surface drainage and air currents (Title 20 of the Health-General 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 (Title 5 of the Criminal Law Article);

- conditions affecting public health and involving plumbing, drainage, offensive trades, water supplies, and disposal of any waste material (Title 10 of the Environment Article); and
- property that is used for prostitution or for the administration, manufacture, distribution, or storage of a controlled dangerous substance or related paraphernalia (Title 14 of the Real Property Article).

Depending on the nuisance, the department charged with abating the nuisance 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.

*Board of Appeals:* A board of appeals, appointed by the elected body of a local jurisdiction, may:

- hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by any administrative officer or unit or any local law;
- hear and decide special exceptions to the terms of a local law on which the board is required to pass under the local law; and
- authorize on appeal, in specific cases, a variance from the terms of a local law.

**Local Fiscal Effect:** St. Mary's County advises that expenditures may increase minimally to account for expenses associated with notifying owners of real property with the applicable nuisances. The county estimates that postage and other notification costs approximate \$200 in fiscal 2014 and decrease by approximately \$50 in each subsequent year.

St. Mary's County also advises that local revenues increase to account for fines associated with zoning inspection and enforcement. The county estimates that revenues increase by \$4,000 in fiscal 2014 and decrease by approximately \$1,000 in each subsequent year.

St. Mary's County further estimates that any increase to both revenues and expenditures will be limited to the first three years or so. By fiscal 2017, the county expects that the owners of real property will have become accustomed to any enacted ordinance.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** St. Mary's County, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - March 21, 2013  
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Analysis by: Michael F. Bender

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510