

FIRST REGULAR SESSION

# SENATE BILL NO. 387

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time February 3, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1878S.011

## AN ACT

To repeal section 67.410, RSMo, and to enact in lieu thereof one new section relating to ordinances for the abatement of public nuisances, with an existing penalty provision.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 67.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.410, to read as follows:

67.410. 1. Except as provided in subsection 3 of this section, any ordinance enacted pursuant to section 67.400 shall:

(1) Set forth those conditions detrimental to the health, safety or welfare of the residents of the city, town, village, or county the existence of which constitutes a nuisance;

(2) Provide for duties of inspectors with regard to such buildings or structures and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such buildings or structures;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the property is to be vacated, if such be the case, reconditioned or removed, listing a reasonable time for commencement; and may provide that such notice be served either by personal service, or [by certified] mail[,] **so long as a signature from the recipient is required for delivery and a return receipt is requested**, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the building or structure as shown by the land

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 records of the recorder of deeds of the county wherein the land is located shall be  
20 made parties;

21 (4) Provide that upon failure to commence work of reconditioning or  
22 demolition within the time specified or upon failure to proceed continuously with  
23 the work without unnecessary delay, the building commissioner or designated  
24 officer or officers shall call and have a full and adequate hearing upon the matter,  
25 giving the affected parties at least ten days' written notice of the hearing. Any  
26 party may be represented by counsel, and all parties shall have an opportunity  
27 to be heard. After the hearings, if the evidence supports a finding that the  
28 building or structure is a nuisance or detrimental to the health, safety, or welfare  
29 of the residents of the city, town, village, or county, the building commissioner or  
30 designated officer or officers shall issue an order making specific findings of fact,  
31 based upon competent and substantial evidence, which shows the building or  
32 structure to be a nuisance and detrimental to the health, safety, or welfare of the  
33 residents of the city, town, village, or county and ordering the building or  
34 structure to be demolished and removed, or repaired. If the evidence does not  
35 support a finding that the building or structure is a nuisance or detrimental to  
36 the health, safety, or welfare of the residents of the city, town, village, or county,  
37 no order shall be issued;

38 (5) Provide that if the building commissioner or other designated officer  
39 or officers issue an order whereby the building or structure is demolished,  
40 secured, or repaired, or the property is cleaned up, the cost of performance shall  
41 be certified [to the city clerk or officer in charge of finance] **by such**  
42 **commissioner or officer**, who shall cause a special tax bill or assessment  
43 therefor against the property to be prepared and collected by the city collector or  
44 other official collecting taxes, unless the building or structure is demolished,  
45 secured or repaired by a contractor pursuant to an order issued by the city, town,  
46 village, or county and such contractor files a mechanic's lien against the property  
47 where the dangerous building is located. The contractor may enforce this lien as  
48 provided in sections 429.010 to 429.360. Except as provided in subsection 3 of  
49 this section, at the request of the taxpayer the tax bill may be paid in  
50 installments over a period of not more than ten years. The tax bill from date of  
51 its issuance shall be deemed a personal debt against the property owner and shall  
52 also be a lien on the property until paid. **Whenever there is an expenditure**  
53 **of city, town, village, or county funds to cause the building or structure**  
54 **to be boarded or whenever the property is secured, repaired, or**

55 **cleaned without necessary permits, all unpaid board-up costs and**  
56 **permit fees, and associated administrative costs, may be added to the**  
57 **real estate taxes of the property. If such costs or fees are added to the**  
58 **annual real estate tax bill for the property and not paid, the real estate**  
59 **taxes shall be considered delinquent, and the collection thereof shall**  
60 **be governed by the laws applicable to delinquent real estate taxes. A**  
61 city not within a county or a city with a population of at least four hundred  
62 thousand located in more than one county, notwithstanding any charter provision  
63 to the contrary, may, by ordinance, provide that upon determination by the city  
64 that a public benefit will be gained the city may discharge the special tax bill,  
65 including the costs of tax collection, accrued interest and attorneys fees, if any.

66         2. If there are proceeds of any insurance policy based upon a covered  
67 claim payment made for damage or loss to a building or other structure caused  
68 by or arising out of any fire, explosion, or other casualty loss, the ordinance may  
69 establish a procedure for the payment of up to twenty-five percent of the  
70 insurance proceeds, as set forth in this subsection. The order or ordinance shall  
71 apply only to a covered claim payment which is in excess of fifty percent of the  
72 face value of the policy covering a building or other structure:

73         (1) The insurer shall withhold from the covered claim payment up to  
74 twenty-five percent of the covered claim payment, and shall pay such moneys to  
75 the city to deposit into an interest-bearing account. Any named mortgagee on the  
76 insurance policy shall maintain priority over any obligation under the order or  
77 ordinance;

78         (2) The city or county shall release the proceeds and any interest which  
79 has accrued on such proceeds received under subdivision (1) of this subsection to  
80 the insured or as the terms of the policy and endorsements thereto provide within  
81 thirty days after receipt of such insurance moneys, unless the city or county has  
82 instituted legal proceedings under the provisions of subdivision (5) of subsection  
83 1 of this section. If the city or county has proceeded under the provisions of  
84 subdivision (5) of subsection 1 of this section, all moneys in excess of that  
85 necessary to comply with the provisions of subdivision (5) of subsection 1 of this  
86 section for the removal, securing, repair and cleanup of the building or structure,  
87 and the lot on which it is located, less salvage value, shall be paid to the insured;

88         (3) If there are no proceeds of any insurance policy as set forth in this  
89 subsection, at the request of the taxpayer, the tax bill may be paid in  
90 installments over a period of not more than ten years. The tax bill from date of

91 its issuance shall be a lien on the property until paid;

92 (4) This subsection shall apply to fire, explosion, or other casualty loss  
93 claims arising on all buildings and structures;

94 (5) This subsection does not make the city or county a party to any  
95 insurance contract, and the insurer is not liable to any party for any amount in  
96 excess of the proceeds otherwise payable under its insurance policy.

97 3. The governing body of any city not within a county and the governing  
98 body of any city with a population of three hundred fifty thousand or more  
99 inhabitants which is located in more than one county may enact their own  
100 ordinances pursuant to section 67.400 and are exempt from subsections 1 and 2  
101 of this section.

102 4. Notwithstanding the provisions of section 82.300, any city may  
103 prescribe and enforce and collect fines and penalties for a breach of any ordinance  
104 enacted pursuant to section 67.400 or this section and to punish the violation of  
105 such ordinance by a fine or imprisonment, or by both fine and  
106 imprisonment. Such fine may not exceed one thousand dollars, unless the owner  
107 of the property is not also a resident of the property, then such fine may not  
108 exceed two thousand dollars.

109 5. The ordinance may also provide that a city not within a county or a city  
110 with a population of at least three hundred fifty thousand located in more than  
111 one county may seek to recover the cost of demolition prior to the occurrence of  
112 demolition, as described in this subsection. The ordinance may provide that if the  
113 building commissioner or other designated officer or officers issue an order  
114 whereby the building or structure is ordered to be demolished, secured or  
115 repaired, and the owner has been given an opportunity for a hearing to contest  
116 such order, then the building commissioner or other designated officer or officers  
117 may solicit no less than two independent bids for such demolition work. The  
118 amount of the lowest bid, including offset for salvage value, if any, plus  
119 reasonable anticipated costs of collection, including attorney's fees, shall be  
120 certified to the city clerk or officer in charge of finance, who shall cause a special  
121 tax bill to be issued against the property owner to be prepared and collected by  
122 the city collector or other official collecting taxes. The municipal clerk or other  
123 officer in charge of finance shall discharge the special tax bill upon  
124 documentation by the property owner of the completion of the ordered repair or  
125 demolition work. Upon determination by the municipal clerk or other officer in  
126 charge of finance that a public benefit is secured prior to payment of the special

127 tax bill, the municipal clerk or other officer in charge of finance may discharge  
128 the special tax bill upon the transfer of the property. The payment of the special  
129 tax bill shall be held in an interest-bearing account. Upon full payment of the  
130 special tax bill, the building commissioner or other designated officer or officers  
131 shall, within one hundred twenty days thereafter, cause the ordered work to be  
132 completed, and certify the actual cost thereof, including the cost of tax bill  
133 collection and attorney's fees, to the city clerk or other officer in charge of finance  
134 who shall, if the actual cost differs from the paid amount by greater than two  
135 percent of the paid amount, refund the excess payment, if any, to the payor, or  
136 if the actual amount is greater, cause a special tax bill or assessment for the  
137 difference against the property to be prepared and collected by the city collector  
138 or other official collecting taxes. If the building commissioner or other designated  
139 officer or officers shall not, within one hundred twenty days after full payment,  
140 cause the ordered work to be completed, then the full amount of the payment,  
141 plus interest, shall be repaid to the payor. Except as provided in subsection 2 of  
142 this section, at the request of the taxpayer the tax bill for the difference may be  
143 paid in installments over a period of not more than ten years. The tax bill for the  
144 difference from the date of its issuance shall be deemed a personal debt against  
145 the property owner and shall also be a lien on the property until paid.

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