

SECOND REGULAR SESSION

SENATE BILL NO. 1261

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS DOUGHERTY, COLEMAN, BLAND AND KENNEDY.

Read 1st time February 28, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

4504S.021

AN ACT

To repeal section 701.308, RSMo, relating to lead abatement, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 701.308, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 701.308, to read as follows:

701.308. 1. Upon receipt of written notification of the presence of a lead hazard, the owner shall comply with the requirement for abating or establishing interim controls for the lead hazard in a manner consistent with the recommendations described by the department and within the applicable time period. If the dwelling or child-occupied facility is a rental or leased property, the owner may remove it from the rental market.

2. Except as provided in subsection 1 of this section, no tenant shall be evicted because an individual with an elevated blood lead level or with suspected lead poisoning resides in the dwelling, or because of any action required of the dwelling owner as a result of enforcement of sections 701.300 to 701.338. The provisions of this subsection shall not operate to prevent the owner of any such dwelling from evicting a tenant for any other reason as provided by law.

3. No child shall be denied attendance at a child-occupied facility because of an elevated blood lead level or suspected lead poisoning or because of any action required of the facility owner as a result of enforcement of sections 701.300 to 701.338. The provisions of this subsection shall not prevent the owner or agent of any such child-occupied facility from denying attendance for any other reason allowed by law.

4. Whenever the department, representative of a unit of local government, or local health department licensed by the department for this purpose, finds, after providing written notification

to the owner, that required actions which will result in the reduction of a lead hazard in a dwelling or child-occupied facility have not been taken, the owner shall be deemed to be in violation of sections 701.300 to 701.338. Such violation shall not by itself create a cause of action. The department or the local government or local health department shall:

(1) Notify in writing the owner found to be causing, allowing or permitting the violation to take place; and

(2) Order that the owner of the dwelling or child-occupied facility shall cease and abate causing, allowing or permitting the violation and shall take such action as is necessary to comply with this section and the rules promulgated pursuant to this section.

5. If no action is taken pursuant to subsection 4 of this section which would result in abatement or interim control of the lead hazard within the stated time period, the following steps may be taken:

(1) The local health officer and local building officials may, as practical, use such community or other resources as are available to effect the relocation of the individuals who occupied the affected dwelling or child-occupied facility until the owner complies with the notice; or

(2) The department, representative of a unit of local government or health department licensed by the department for this purpose, shall report any violation of sections 701.300 to 701.338 to the prosecuting attorney of the county in which the dwelling or child-occupied facility is located and notify the owner that such a report has been made. The prosecuting attorney shall seek injunctive relief to ensure that the lead hazard is abated or that interim controls are established.

6. If no action is taken pursuant to subsection 4 of this section which would result in abatement or interim control of the lead hazard within the stated time period, the governing body of a city not within a county may, and shall have, the authority to, in addition to the remedies contained in subsection 5 of this section, employ any of the following measures:

(1) Abate the lead hazard and charge the costs of abating such dwelling to the property owner. The governing body of a city not within a county may collect the costs of abatement by placing a lien upon the owner's dwelling; or

(2) Issue fines and penalties established pursuant to ordinance by the governing body of the city not within a county, for failing to abate the lead hazard.