

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 1086 & 1126

91ST GENERAL ASSEMBLY

2002

4417S.05T

AN ACT

To repeal sections 67.398, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, RSMo, and to enact in lieu thereof ten new sections relating to nuisance abatement.

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

Section A. Sections 67.398, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 67.398, 67.402, 71.285, 447.620, 447.622, 447.625, 447.632, 447.636, 447.638, and 447.640, to read as follows:

67.398. 1. The governing body of any city[, town] or village, or any county having a charter form of government, or any county of the first classification that contains part of a city with a population of at least three hundred thousand inhabitants, may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of [debris of any kind] **a nuisance** including, but not limited to, **debris of any kind**, weed cuttings, cut [and], fallen, **or hazardous** trees and shrubs, overgrown vegetation and noxious weeds which are seven inches or more in height, rubbish and trash, lumber not piled or stacked twelve inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, any flammable material which may endanger public safety or any material **or condition** which is unhealthy or unsafe and declared to be a public nuisance.

2. **The governing body of any home rule city with more than four hundred**

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

thousand inhabitants and located in more than one county may enact ordinances for the abatement of a condition of any lot or land that has vacant buildings or structures open to entry.

3. Any ordinance authorized by this section may provide that if the owner fails to begin removing **or abating** the nuisance within a specific time which shall not be [longer] **less** than seven days of receiving notice that the nuisance has been ordered removed **or abated**, or upon failure to pursue the removal **or abatement** of such nuisance without unnecessary delay, the building commissioner or designated officer [shall] **may** cause the condition which constitutes the nuisance to be removed **or abated**. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal **or abatement** shall be certified to the city clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the collecting official's option, for the property and the certified cost shall be collected by the city collector or other official collecting taxes in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

67.402. 1. The governing body of any county of the first classification without a charter form of government and with more than one hundred ninety-eight thousand but less than one hundred ninety-nine thousand two hundred inhabitants may enact ordinances to provide for the abatement of a condition of any lot or land that has the presence of rubbish and trash, lumber, bricks, tin, steel, parts of derelict motorcycles, derelict cars, derelict trucks, derelict construction equipment, derelict appliances and broken furniture which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.

2. Any ordinance enacted pursuant to this section shall:

(1) Set forth those conditions which constitute a nuisance and which are detrimental to the health, safety, or welfare of the residents of the county;

(2) Provide for duties of inspectors with regard to those conditions which may be declared a nuisance, and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such property;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the nuisance is to be abated, listing a reasonable time for commencement, and may provide that such notice be served either by personal service or by certified mail, return receipt 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 property as shown by the land records of the recorder of deeds of the county wherein the property is located shall be made parties;

(4) Provide that upon failure to commence work of abating the nuisance within the time specified or upon failure to proceed continuously with the work without unnecessary delay, the building commissioner or designated officer or officers shall call and have a full and adequate hearing upon the matter before the county commission, giving the affected parties at least ten days written notice of the hearing. Any party may be represented by counsel, and all parties shall have an opportunity to be heard. After the hearings, if evidence supports a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, the county commission shall issue an order making specific findings of fact, based upon competent and substantial evidence, which shows the property to be a nuisance and detrimental to the health, safety, or welfare of the residents of the county and ordering the nuisance abated. If the evidence does not support a finding that the property is a nuisance or detrimental to the health, safety, or welfare of the residents of the county, no order shall be issued.

3. Any ordinance authorized by this section may provide that if the owner fails to begin abating the nuisance within a specific time which shall not be longer than seven days of receiving notice that the nuisance has been ordered removed, the building commissioner or designated officer shall cause the condition which constitutes the nuisance to be removed. If the building commissioner or designated officer causes such condition to be removed or abated, the cost of such removal shall be certified to the county clerk or officer in charge of finance who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, at the county collector's option, for the property and the certified cost shall be collected by the county collector in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.

71.285. 1. Whenever weeds or trash, in violation of an ordinance, are allowed to grow or accumulate, as the case may be, on any part of any lot or ground within any city, town or village in this state, the owner of the ground, or in case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof, shall be liable. The marshal or other city official as

designated in such ordinance shall give a hearing after ten days' notice thereof, either personally or by United States mail to the owner or owners, or his or her or their agents, or by posting such notice on the premises; thereupon, the marshal or other designated city official may declare the weeds or trash to be a nuisance and order the same to be abated within five days; and in case the weeds or trash are not removed within the five days, the marshal or other designated city official shall have the weeds or trash removed, and shall certify the costs of same to the city clerk, who shall cause a special tax bill therefor against the property to be prepared and to be collected by the collector, with other taxes assessed against the property; and the tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent per annum. Notwithstanding the time limitations of this section, any city, town or village located in a county of the first classification may hold the hearing provided in this section four days after notice is sent or posted, and may order at the hearing that the weeds or trash shall be abated within five business days after the hearing and if such weeds or trash are not removed within five business days after the hearing, the order shall allow the city to immediately remove the weeds or trash pursuant to this section. Except for lands owned by a public utility, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation, the provisions of this subsection shall not apply to any city with a population of at least seventy thousand inhabitants which is located in a county of the first classification with a population of less than one hundred thousand inhabitants which adjoins a county with a population of less than one hundred thousand inhabitants that contains part of a city with a population of three hundred fifty thousand or more inhabitants, any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, or any city, town or village located within a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, or any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, or the City of St. Louis, where such city, town or village establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

2. Except as provided in subsection 3 of this section, if weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year

in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the City of St. Louis, in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants [or], in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand, **or in any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants,** the marshal or other designated city official may order that the weeds or trash be abated within five business days after notice is sent to or posted on the property. In case the weeds or trash are not removed within the five days, the marshal or other designated city official may have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section.

3. If weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, in any city with a population of three hundred fifty thousand or more inhabitants which is located in more than one county, in the City of St. Louis, in any city, town or village located in a county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants [or], in any fourth class city located in a county of the first classification with a charter form of government and a population of less than three hundred thousand, **in any home rule city with more than one hundred thirteen thousand two hundred but less than one hundred thirteen thousand three hundred inhabitants located in a county with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants or in any third class city with a population of at least ten thousand inhabitants but less than fifteen thousand inhabitants with the greater part of the population located in a county of the first classification,** the marshal or other designated official may, without further notification, have the weeds or trash removed and the cost of the same shall be billed in the manner described in subsection 1 of this section. The provisions of subsection 2 and this subsection do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

4. The provisions of this section shall not apply to any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification where such city establishes its own procedures for abatement of weeds or trash, and such city may charge its costs of collecting the

tax bill, including attorney fees, in the event a lawsuit is required to enforce a tax bill.

447.620. As used in sections 447.620 to 447.640, the following terms mean:

(1) "Housing code", a local building, fire, health, property maintenance, nuisance, or other ordinance which contains standards regulating the condition or maintenance of residential buildings;

(2) "Last known address", the address where the property is located or the address as listed in the property tax records;

(3) ["Low- or moderate-income housing", housing for persons and families who lack the amount of income necessary to rent or purchase adequate housing without financial assistance, as defined by such income limits as shall be established by the Missouri housing development commission for the purposes of determining eligibility under any program aimed at providing housing for low- and moderate-income families or persons;

(4)] "Municipality", any incorporated city, town, or village;

[(5)] (4) "Nuisance", any property which because of its physical condition or use is a public nuisance or any property which constitutes a blight on the surrounding area or any property which is in violation of the applicable housing code such that it constitutes a substantial threat to the life, health, or safety of the public. For purposes of sections 447.620 to 447.640, any declaration of a public nuisance by a municipality pursuant to an ordinance adopted pursuant to sections 67.400 to 67.450, RSMo, shall constitute prima facie evidence that the property is a nuisance;

[(6)] (5) "Organization", any Missouri not-for-profit organization validly organized pursuant to law and whose purpose includes the provision or enhancement of housing opportunities in its community;

[(7)] (6) "Parties in interest", any owner or owners of record, occupant, lessee, mortgagee, trustee, personal representative, agent, or other party having an interest in the property as shown by the land records of the recorder of deeds of the county wherein the property is located, except in any municipality contained wholly or partially within a county [with a population of over six hundred thousand and less than nine hundred thousand] **with a charter form of government and with more than six hundred thousand but less than seven hundred thousand inhabitants**, "parties in interest" shall mean owners, lessees, mortgagees, or lienholders whose interest has been recorded or filed in the public records;

[(8)] (7) "Rehabilitation", the process of improving the property, including, but not limited to, bringing the property into compliance with the applicable housing code.

447.622. Any organization may petition to have property declared abandoned pursuant to the provisions of sections 447.620 to 447.640 and for temporary possession of such property, if:

(1) The property has been continuously unoccupied by persons legally entitled to

possession for at least one month prior to the filing of the petition;

(2) The taxes are delinquent on the property;

(3) The property is a nuisance; and

(4) The organization intends to rehabilitate the property [and use the property as low- or moderate-income housing].

447.625. 1. Any petition filed under the provisions of sections 447.620 to 447.640 which pertains to property located within any [municipality contained wholly or partially within a county with a population of over six hundred thousand and less than nine hundred thousand] **home rule city with more than four hundred thousand inhabitants and located in more than one county** shall meet the requirements of this section.

2. Summons shall be issued and service of process shall be had as in other in rem or quasi in rem civil actions.

3. The petition shall contain a prayer for a court order approving the organization's rehabilitation plan and granting temporary possession of the property to the organization. The petition shall also contain a prayer for a sheriff's deed conveying title to the property to the organization [at the expiration of the one-year period following entry of the order granting temporary possession of the property to the organization] **upon the completion of rehabilitation** when no owner has regained possession of the property pursuant to section [447.438] **447.638**.

4. The court shall stay any ruling on the organization's prayer for a sheriff's deed until [the one-year period has expired] **rehabilitation has been completed**.

5. The owner [shall be entitled to regain possession of the property by motion instead of a new petition under section 447.638. The compensation to be paid shall be set] **may file a motion for restoration of possession of the property prior to the completion of rehabilitation. The court shall determine whether to restore possession to the owner and proper compensation to the organization** in the same manner as in section 447.638.

6. [The] **Upon completion of rehabilitation the** organization may file a motion for sheriff's deed in place of a petition for judicial deed under section 447.640.

7. The provisions of sections 447.620 to 447.640 shall apply except where they are in conflict with this section.

447.632. The court shall grant the organization's petition if the court finds that the conditions alleged by the plaintiff as specified in section 447.622 [exist] **existed at the time the verified petition was filed in the circuit court**, that the plan for the rehabilitation of the property submitted to the court by the plaintiff is feasible, and defendant has failed to demonstrate that the plaintiff should not be allowed to rehabilitate the property.

447.636. The organization shall file [an annual] **a quarterly** report of its rehabilitation and use of the property, including a statement of all expenditures made by the organization and

all income and receipts from the property for the preceding [years] **quarters**.

447.638. The owner [shall be entitled to regain possession of the property by petitioning] **may petition** the circuit court for restoration of possession **of the property** and, upon due notice to the plaintiff organization, for a hearing on such petition. At the hearing, the court shall determine **whether the owner has the capacity and the resources to complete rehabilitation of the property if such work has not been completed by the organization. If the court determines that the owner does not have the capacity or the resources to complete rehabilitation of the property the court shall not restore possession to the owner. If the court determines that the rehabilitation work has been completed by the organization or that the owner has the capacity and the resources to complete the rehabilitation, the court shall then determine** proper compensation to the organization for its expenditures, including management fees, based on the organization's reports to the court. The court, in determining the proper compensation to the organization, may consider income or receipts received from the property by the organization. After the owner pays the compensation to the organization as determined by the court, the owner shall resume possession of the property, subject to all existing rental agreements, whether written or verbal, entered into by the organization.

447.640. If an owner [takes no action to] **does not** regain possession of the property in the one-year period following entry of an order granting temporary possession of the property to the organization, the organization may file a petition for judicial deed and, upon due notice to the named defendants, an order may be entered granting a quitclaim judicial deed to the organization. A conveyance by judicial deed shall operate to extinguish all existing ownership interests in, liens on, and other interest in the property, except tax liens.

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