

SECOND REGULAR SESSION

SENATE BILL NO. 1044

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time February 10, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5065S.02I

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Section A. Section 67.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.410, to read as follows: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

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

19 shown by the land records of the recorder of deeds of the county wherein the land
20 is located shall be 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], **except in emergencies**, the building
24 commissioner or designated officer or officers shall call and have a full and
25 adequate hearing upon the matter, giving the affected parties at least ten days'
26 written notice of the hearing. Any party may be represented by counsel, and all
27 parties shall have an opportunity to be heard. After the hearings, if the evidence
28 supports a finding that the building or structure is a nuisance or detrimental to
29 the health, safety, or welfare of the residents of the city, town, village, or county,
30 the building commissioner or designated officer or officers shall issue an order
31 making specific findings of fact, based upon competent and substantial evidence,
32 which shows the building or structure to be a nuisance and detrimental to the
33 health, safety, or welfare of the residents of the city, town, village, or county and
34 ordering the building or structure to be demolished and removed, or repaired. If
35 the evidence does not support a finding that the building or structure is a
36 nuisance or detrimental to the health, safety, or welfare of the residents of the
37 city, town, village, or county, 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 **the certified cost to be included**
43 **in** a special tax bill or assessment [therefor against the property to be prepared],
44 **or added to the annual real estate tax bill for the property, at the**
45 **collecting official's option**, and collected by the city collector or other official
46 collecting taxes **in the same manner and procedure for collecting real**
47 **estate taxes**, unless the building or structure is demolished, secured or repaired
48 by a contractor pursuant to an order issued by the city, town, village, or county
49 and such contractor files a mechanic's lien against the property where the
50 dangerous building is located. The contractor may enforce this lien as provided
51 in sections 429.010 to 429.360. Except as provided in subsection 3 of this section,
52 at the request of the taxpayer the tax bill may be paid in installments over a
53 period of not more than ten years. The tax bill from date of its issuance shall be
54 deemed a personal debt against the property owner and shall also be a lien on the

55 property until paid. **If the certified cost is not paid, the tax bill shall be**
56 **considered delinquent, and the collection of the delinquent bill shall be**
57 **governed by the laws governing delinquent and back taxes.** A city not
58 within a county or a city with a population of at least four hundred thousand
59 located in more than one county, notwithstanding any charter provision to the
60 contrary, may, by ordinance, provide that upon determination by the city that a
61 public benefit will be gained the city may discharge the special tax bill, including
62 the costs of tax collection, accrued interest and attorneys fees, if any.

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

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

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

85 (3) If there are no proceeds of any insurance policy as set forth in this
86 subsection, at the request of the taxpayer, the tax bill may be paid in
87 installments over a period of not more than ten years. The tax bill from date of
88 its issuance shall be a lien on the property until paid;

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

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

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

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

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

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

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