

SECOND REGULAR SESSION

# SENATE BILL NO. 554

99TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR DIXON.

Pre-filed December 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

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## AN ACT

To repeal sections 82.1025, 82.1027, and 82.1028, RSMo, and to enact in lieu thereof three new sections relating to property regulations in certain cities and counties.

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

Section A. Sections 82.1025, 82.1027, and 82.1028, RSMo, are repealed  
2 and three new sections enacted in lieu thereof, to be known as sections 82.1025,  
3 82.1027, and 82.1028, to read as follows:

82.1025. 1. **Sections 82.1025 to 82.1030 shall be known and may be**  
2 **cited as the "Neighborhood Restoration Act".**

3       **2.** This section applies to a nuisance located within the boundaries of any  
4 county of the first classification with a charter form of government and a  
5 population greater than nine hundred thousand, in any county of the first  
6 classification with more than one hundred ninety-eight thousand but fewer than  
7 one hundred ninety-nine thousand two hundred inhabitants, in any county of the  
8 first classification with more than seventy-three thousand seven hundred but  
9 fewer than seventy-three thousand eight hundred inhabitants, in any county of  
10 the first classification with more than ninety-three thousand eight hundred but  
11 fewer than ninety-three thousand nine hundred inhabitants, in any home rule  
12 city with more than one hundred fifty-one thousand five hundred but fewer than  
13 one hundred fifty-one thousand six hundred inhabitants, in any city not within  
14 a county [and], in any city with at least three hundred fifty thousand inhabitants  
15 which is located in more than one county, **and in any home rule city with**  
16 **more than one hundred fifty-five thousand but fewer than two hundred**  
17 **thousand inhabitants.**

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

18           [2.] 3. A parcel of property is a nuisance, if such property adversely  
19 affects the property values of a neighborhood or the property value of any  
20 property within the neighborhood because the owner of such property allows the  
21 property to be in a deteriorated condition, due to neglect or failure to reasonably  
22 maintain, violation of a county or municipal building code, standard, or  
23 ordinance, abandonment, failure to repair after a fire, flood or some other damage  
24 to the property or because the owner or resident of the property allows clutter on  
25 the property such as abandoned automobiles, appliances or similar objects. Any  
26 property owner who owns property within one thousand two hundred feet of a  
27 parcel of property which is alleged to be a nuisance may bring a nuisance action  
28 against the offending property owner for the amount of damage created by such  
29 nuisance to the value of the petitioner's property, including diminution in value  
30 of the petitioner's property, and court costs, provided that the owner of the  
31 property which is alleged to be a nuisance has received notification of the alleged  
32 nuisance and has had a reasonable opportunity, not to exceed forty-five days, to  
33 correct the alleged nuisance. This section is not intended to abrogate, and shall  
34 not be construed as abrogating, any remedy available under the common law of  
35 private nuisance.

36           [3.] 4. An action for injunctive relief to abate a nuisance under this  
37 section may be brought by:

38           (1) Anyone who owns property within one thousand two hundred feet to  
39 a property which is alleged to be a nuisance; or

40           (2) A neighborhood organization, as defined in subdivision (2) of section  
41 82.1027, on behalf of any person or persons who own property within the  
42 boundaries of the neighborhood or neighborhoods described in the articles of  
43 incorporation or bylaws of the neighborhood organization and who could maintain  
44 a nuisance action under this section or under the common law of private  
45 nuisance, or on its own behalf with respect to a nuisance on property anywhere  
46 within the boundaries of the neighborhood or neighborhoods.

47           [4.] 5. An action shall not be brought under this section until sixty days  
48 after the party who brings the action has sent written notice of intent to bring an  
49 action under this section by certified mail, return receipt requested, postage  
50 prepaid to:

51           (1) The tenant, if any, or to "occupant" if the identity of the tenant cannot  
52 be reasonably ascertained, at the property's address; and

53           (2) The property owner of record at the last known address of the property

owner on file with the county or city, or, if the property owner is a corporation or other type of limited liability company, to the property owner's registered agent at the agent's address of record;

that a nuisance exists and that legal action may be taken against the owner of the property. If the notice sent by certified mail is returned unclaimed or refused, designated by the post office to be undeliverable, or signed for by a person other than the addressee, then adequate and sufficient notice may be given to the tenant, if any, and the property owner of record by sending a copy of the notice by regular mail to the address of the property owner or registered agent and posting a copy of the notice on the property where the nuisance allegedly is occurring. A sworn affidavit by the person who mailed or posted the notice describing the date and manner that notice was given shall be prima facie evidence of the giving of such notice. The notice shall specify:

- (a) The act or condition that constitutes the nuisance;
- (b) The date the nuisance was first discovered;
- (c) The address of the property and location on the property where the act or condition that constitutes the nuisance is allegedly occurring or exists; and
- (d) The relief sought in the action.

**[5.] 6.** When a neighborhood organization files a suit under this section, an officer of the neighborhood organization or its counsel shall certify to the court:

(1) From personal knowledge, that the neighborhood organization has taken the required steps to satisfy the notice requirements under this section; and

(2) Based on reasonable inquiry, that each condition precedent to the filing of the action under this section has been met.

**[6.] 7.** A neighborhood organization may not bring an action under this section if, at the time of filing suit, the neighborhood organization or any of its directors own real estate, or have an interest in a trust or a corporation or other limited liability company that owns real estate, in the city or county in which the nuisance is located with respect to which real property taxes are delinquent or a notice of violation of a city code or ordinance has been issued and served and is outstanding.

**[7.] 8.** This section is not intended to abrogate, and shall not be construed as abrogating, any remedy available under the common law of private nuisance.

82.1027. As used in sections 82.1027 to 82.1030, the following terms

mean:

(1) "Code or ordinance violation", a violation under the provisions of a municipal code or ordinance of any home rule city with more than four hundred thousand inhabitants and located in more than one county, **any home rule city with more than one hundred fifty-five thousand but fewer than two hundred thousand inhabitants**, or any city not within a county, which regulates fire prevention, animal control, noise control, property maintenance, building construction, health, safety, neighborhood detriment, sanitation, or nuisances;

(2) "Neighborhood organization", a Missouri not-for-profit corporation whose articles of incorporation or bylaws specify that one of the purposes for which the corporation is organized is the preservation and protection of residential and community property values in a neighborhood or neighborhoods with geographic boundaries that conform to the boundaries of not more than two adjoining neighborhoods recognized by the planning division of the city or county in which the neighborhood or neighborhoods are located provided that the corporation's articles of incorporation or bylaws provide that:

(a) The corporation has members;

(b) Membership shall be open to all persons who own residential real estate or who reside in the neighborhood or neighborhoods described in the corporation's articles of incorporation or bylaws subject to reasonable restrictions on membership to protect the integrity of the organization; however, membership may not be conditioned upon payment of monetary consideration in excess of twenty-five dollars per year; and

(c) Only members who own residential real estate or who reside in the neighborhood or neighborhoods described in the corporation's articles of incorporation or bylaws may elect directors or serve as a director;

(3) "Nuisance", within the boundaries of the neighborhood or neighborhoods described in the articles of incorporation or bylaws of the neighborhood organization, an act or condition knowingly created, performed, maintained, or permitted to exist on private property that constitutes a code or ordinance violation and that significantly affects the other residents of the neighborhood; and:

(a) Diminishes the value of the neighboring property; or

(b) Is injurious to the public health, safety, security, or welfare of

37 neighboring residents or businesses; or

38 (c) Impairs the reasonable use or peaceful enjoyment of other property in  
39 the neighborhood.

82.1028. Sections 82.1027 to 82.1030 **shall** apply to a nuisance located  
2 within the boundaries of any city not within a county [and], any home rule city  
3 with more than four hundred thousand inhabitants and located in more than one  
4 county, **and any home rule city with more than one hundred fifty-five**  
5 **thousand but fewer than two hundred thousand inhabitants.**

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