

FIRST EXTRAORDINARY SESSION OF THE

FIRST REGULAR SESSION

SENATE BILL NO. 7

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

3284S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 67.410, RSMo, and to enact in lieu thereof one new section relating to insurance payments for losses to buildings or other structures, with penalty provisions.

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Section A. Section 67.410, RSMo, is repealed and one new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

67.410. 1. Except as provided in subsection [3] 2 of
2 this section, any ordinance enacted pursuant to section
3 67.400 shall:

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

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

13 (3) Provide for service of adequate notice of the
14 declaration of nuisance, which notice shall specify that the
15 property is to be vacated, if such be the case,
16 reconditioned or removed, listing a reasonable time for

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

17 commencement; and may provide that such notice be served
18 either by personal service or by certified mail, return
19 receipt requested, but if service cannot be had by either of
20 these modes of service, then service may be had by
21 publication. The ordinances shall further provide that the
22 owner, occupant, lessee, mortgagee, agent, and all other
23 persons having an interest in the building or structure as
24 shown by the land records of the recorder of deeds of the
25 county wherein the land is located shall be made parties;

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

49 (5) Provide that if the building commissioner or other
50 designated officer or officers issue an order whereby the
51 building or structure is demolished, secured, or repaired,
52 or the property is cleaned up, the cost of performance shall
53 be certified to the city clerk or officer in charge of
54 finance, who shall cause a special tax bill or assessment
55 therefor against the property to be prepared and collected
56 by the city collector or other official collecting taxes,
57 unless the building or structure is demolished, secured or
58 repaired by a contractor pursuant to an order issued by the
59 city, town, village, or county and such contractor files a
60 mechanic's lien against the property where the dangerous
61 building is located. The contractor may enforce this lien
62 as provided in sections 429.010 to 429.360. Except as
63 provided in subsection [3] 2 of this section, at the request
64 of the taxpayer the tax bill may be paid in installments
65 over a period of not more than ten years. The tax bill from
66 date of its issuance shall be deemed a personal debt against
67 the property owner and shall also be a lien on the property
68 until paid. A city not within a county or a city with a
69 population of at least four hundred thousand located in more
70 than one county, notwithstanding any charter provision to
71 the contrary, may, by ordinance, provide that upon
72 determination by the city that a public benefit will be
73 gained the city may discharge the special tax bill,
74 including the costs of tax collection, accrued interest and
75 attorneys fees, if any.

76 2. [If there are proceeds of any insurance policy
77 based upon a covered claim payment made for damage or loss
78 to a building or other structure caused by or arising out of
79 any fire, explosion, or other casualty loss, the ordinance
80 may establish a procedure for the payment of up to twenty-

81 five percent of the insurance proceeds, as set forth in this
82 subsection. The order or ordinance shall apply only to a
83 covered claim payment which is in excess of fifty percent of
84 the face value of the policy covering a building or other
85 structure:

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

92 (2) The city or county shall release the proceeds and
93 any interest which has accrued on such proceeds received
94 under subdivision (1) of this subsection to the insured or
95 as the terms of the policy and endorsements thereto provide
96 within thirty days after receipt of such insurance moneys,
97 unless the city or county has instituted legal proceedings
98 under the provisions of subdivision (5) of subsection 1 of
99 this section. If the city or county has proceeded under the
100 provisions of subdivision (5) of subsection 1 of this
101 section, all moneys in excess of that necessary to comply
102 with the provisions of subdivision (5) of subsection 1 of
103 this section for the removal, securing, repair and cleanup
104 of the building or structure, and the lot on which it is
105 located, less salvage value, shall be paid to the insured;

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

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

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

118 **3.]** The governing body of any city not within a county
119 and the governing body of any city with a population of
120 three hundred fifty thousand or more inhabitants which is
121 located in more than one county may enact their own
122 ordinances pursuant to section 67.400 and are exempt from
123 **[subsections] subsection 1 [and 2]** of this section.

124 **[4.] 3.** Notwithstanding the provisions of section
125 82.300, any city may prescribe and enforce and collect fines
126 and penalties for a breach of any ordinance enacted pursuant
127 to section 67.400 or this section and to punish the
128 violation of such ordinance by a fine or imprisonment, or by
129 both fine and imprisonment. Such fine may not exceed one
130 thousand dollars, unless the owner of the property is not
131 also a resident of the property, then such fine may not
132 exceed two thousand dollars.

133 **[5.] 4.** The ordinance may also provide that a city not
134 within a county or a city with a population of at least
135 three hundred fifty thousand located in more than one county
136 may seek to recover the cost of demolition prior to the
137 occurrence of demolition, as described in this subsection.
138 The ordinance may provide that if the building commissioner
139 or other designated officer or officers issue an order
140 whereby the building or structure is ordered to be
141 demolished, secured or repaired, and the owner has been
142 given an opportunity for a hearing to contest such order,

143 then the building commissioner or other designated officer
144 or officers may solicit no less than two independent bids
145 for such demolition work. The amount of the lowest bid,
146 including offset for salvage value, if any, plus reasonable
147 anticipated costs of collection, including attorney's fees,
148 shall be certified to the city clerk or officer in charge of
149 finance, who shall cause a special tax bill to be issued
150 against the property owner to be prepared and collected by
151 the city collector or other official collecting taxes. The
152 municipal clerk or other officer in charge of finance shall
153 discharge the special tax bill upon documentation by the
154 property owner of the completion of the ordered repair or
155 demolition work. Upon determination by the municipal clerk
156 or other officer in charge of finance that a public benefit
157 is secured prior to payment of the special tax bill, the
158 municipal clerk or other officer in charge of finance may
159 discharge the special tax bill upon the transfer of the
160 property. The payment of the special tax bill shall be held
161 in an interest-bearing account. Upon full payment of the
162 special tax bill, the building commissioner or other
163 designated officer or officers shall, within one hundred
164 twenty days thereafter, cause the ordered work to be
165 completed, and certify the actual cost thereof, including
166 the cost of tax bill collection and attorney's fees, to the
167 city clerk or other officer in charge of finance who shall,
168 if the actual cost differs from the paid amount by greater
169 than two percent of the paid amount, refund the excess
170 payment, if any, to the payor, or if the actual amount is
171 greater, cause a special tax bill or assessment for the
172 difference against the property to be prepared and collected
173 by the city collector or other official collecting taxes.
174 If the building commissioner or other designated officer or

175 officers shall not, within one hundred twenty days after
176 full payment, cause the ordered work to be completed, then
177 the full amount of the payment, plus interest, shall be
178 repaid to the payor. [Except as provided in subsection 2 of
179 this section,] At the request of the taxpayer the tax bill
180 for the difference may be paid in installments over a period
181 of not more than ten years. The tax bill for the difference
182 from the date of its issuance shall be deemed a personal
183 debt against the property owner and shall also be a lien on
184 the property until paid.

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