

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 388

AN ACT

To repeal sections 67.399, 82.1025, 82.1026, 82.1027, 82.1031, and 140.984, RSMo, and to enact in lieu thereof seven new sections relating to deteriorated or abandoned property.

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

Section A. Sections 67.399, 82.1025, 82.1026, 82.1027, 82.1031, and 140.984, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 67.399, 67.452, 82.1025, 82.1026, 82.1027, 82.1031, and 140.984, to read as follows:

67.399. 1. The governing body of any municipality or county with a charter form of government and with more than one million inhabitants may, by ordinance, establish a semiannual registration fee not to exceed two hundred dollars which shall be charged to the owner of any parcel of residential property improved by a residential structure, or commercial property improved by a structure containing multiple dwelling units, that is vacant, has been vacant for at least six months, and is characterized by violations of applicable housing codes established by such municipality.

2. The municipality shall designate a municipal officer to investigate any property that may be subject to the registration fee. The officer shall report [his] such officer's findings and recommendations, and shall determine whether any such property shall be subject to the registration fee. Within five business days, the clerk of the municipality or county with a charter form of government and with more than one million inhabitants shall notify by mail the owners of property on which the registration fee

has been levied at their last known address according to the records of the city and the county. The property owner shall have the right to appeal the decision of the office to the municipal court within thirty days of such notification. Absent the existence of any valid appeal or request for reconsideration pursuant to subsection 3 of this section, the registration fee shall begin to accrue on the beginning of the second calendar quarter after the decision of the municipal officer.

3. Within thirty days of the municipality or county with a charter form of government and with more than one million inhabitants making such notification, the property owner may complete any improvements to the property that may be necessary to revoke the levy of the registration fee, and then may request a reinspection of the property and a reconsideration of the levy of the registration fee by the municipality or county with a charter form of government and with more than one million inhabitants. If the municipal or county officer revokes the registration fee, no such assessment shall be made and the matter shall be considered closed. If the officer affirms the assessment of the registration fee, the property owner shall have the right to appeal the reconsideration decision of the officer to the municipal court within thirty days of such decision. Absent the existence of any valid appeal to the municipal court or other court of competent jurisdiction, the registration fee shall begin to accrue on the beginning of the second calendar quarter after the reconsideration decision of the municipal governing body.

4. The municipal governing body shall establish by ordinance procedures for payment of the registration fee and penalties for delinquent payments of such fees. Any registration fees which are delinquent for a period of one

year shall become a lien on the property and shall be subject to foreclosure proceedings in the same manner as delinquent real property taxes. The owner of the property against which the assessment was originally made shall be able to redeem the property only by presenting evidence that the violations of the applicable housing code cited by the municipal officers have been cured and presenting payment of all registration fees and penalties. Upon bona fide sale of the property to an unrelated party said lien shall be considered released and the delinquent registration fee forgiven.

5. (1) The governing body of the following may enact ordinances as provided in this subsection:

(a) Any county with more than one million inhabitants;  
and

(b) Any city or village in any county with more than one million inhabitants.

(2) The governing body of any county, city, or village listed in subdivision (1) of this subsection may enact ordinances to provide for the building official of the county, city, or village, or any authorized representative of the building official, to petition the circuit court in which a vacant nuisance building or structure is located for the appointment of a receiver to rehabilitate the building or structure, to demolish it, or to sell it to a qualified buyer.

67.452. 1. As used in this section, the following terms mean:

(1) "Code or ordinance violation", a violation under the provisions of a municipal or county code or ordinance that 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 that:

(a) Is a bona fide community organization formed for the purpose of neighborhood preservation or improvement in an area of a county, city, or village with defined limits and boundaries described in the organization's articles of incorporation or bylaws;

(b) Has a board of directors composed of individuals, at least half of whom maintain their principal residence in the area of a county, city, or village described in the organization's articles of incorporation or bylaws; and

(c) Is recognized by the federal Internal Revenue Service as tax exempt under the provisions of Section 501(c) (3) of the Internal Revenue Code of 1986, as amended, or the corresponding section of any future tax code;

(3) "Nuisance", an activity or condition created, performed, maintained, or permitted to exist on private property that constitutes a code or ordinance violation, whether or not the property has been cited by the county, city, or village in which the property is located; or, if the property is in a deteriorated condition, due to neglect or failure to reasonably maintain, abandonment, failure to repair after a fire, flood, or some other deterioration of the property, or there is clutter on the property such as abandoned automobiles, appliances, or similar objects; or, with respect to commercial, industrial, or vacant property, if the activity or condition on the property encourages, promotes, or substantially contributes to unlawful activity within three hundred feet of the property; or if any activity or condition:

(a) Diminishes the value of the neighboring property;

(b) Is injurious to the public health, safety, security, or welfare of neighboring residents or businesses;  
or

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

2. This section applies to a nuisance located within the boundaries of:

(1) Any county with more than one million inhabitants;  
or

(2) Any city or village located within the boundaries of any county with more than one million inhabitants.

3. Any property owner who owns property within one thousand two hundred feet of a parcel of property that is alleged to be a nuisance may bring a nuisance action under this section against the offending property owner for the amount of damage created by such nuisance to the value of the petitioner's property including, but not limited to, diminution in value of the petitioner's property and court costs.

4. An action for injunctive relief to abate a nuisance may be brought against the offending property owner under this section by:

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

(2) A neighborhood organization:

(a) On behalf of any person or persons who own property within the boundaries of the geographic area described in the articles of incorporation or bylaws of the neighborhood organization and who could maintain a nuisance action under this section or under the common law of private nuisance; or

(b) On the neighborhood organization's own behalf with respect to a nuisance on property anywhere within the geographic boundaries described in the articles of incorporation or bylaws of the neighborhood organization.

5. (1) An action shall not be brought under this section until sixty days after the party who brings the action has mailed notice of intent to bring an action under this section, postage prepaid, to:

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

(b) The property owner of record at the last known address of the property owner on file with the county, city, or village 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.

(2) Such notice shall state that a nuisance exists and that legal action may be taken against the owner of the property if the nuisance is not eliminated within sixty days after the date on the mailed notice.

(3) If the notice is returned unclaimed or refused, designated by the United States Postal Service to be undeliverable, or signed for by a person other than the addressee, adequate and sufficient notice shall be provided by 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 sufficient evidence to establish that the notice was given.

(4) 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.

6. A proceeding under this section shall:

(1) Be heard at the earliest practicable date; and

(2) Be expedited in every way.

7. When a property owner or neighborhood organization brings an action under this section for injunctive relief to abate a nuisance, a prima facie case for injunctive relief is made upon proof that a citation has been issued by the county, city, or village with jurisdiction over the property that is subject to an action under this section. An action for injunctive relief to abate a nuisance shall be heard by the court without a jury and shall not require proof that the party bringing the action has sustained damage or loss as a result of the nuisance.

8. A copy of a notice of citation issued by the county, city, or village with jurisdiction over the property that is subject to an action under this section that shows the date the citation was issued shall be prima facie evidence of whether and for how long the property has been in violation of the code or ordinance provisions provided in the citation.

9. When a property owner or neighborhood organization bringing the action prevails in such action, such property owner or organization may be entitled to an award for attorneys' fees and expenses, based on the amount of time reasonably expended, as ordered by the court, which award for attorneys' fees and expenses shall be entered as a judgment against the owner of the property on which the act or condition constituting the nuisance occurred or was located.

10. (1) This section shall not be construed as to abrogate any equitable or legal right or remedy otherwise available under the law to abate a nuisance.

(2) This section shall not be construed to grant standing for an action challenging any zoning application or approval.

11. If a property owner sued under this section pleads and proves that a condition alleged by the plaintiff to be a nuisance is the subject matter of an order of the state department of natural resources, the United States Environmental Protection Agency, or the office of the Missouri attorney general and further pleads and proves that the property is in compliance with such order with respect to such condition, such proof shall be an affirmative defense to plaintiff's claim that such condition is subject to one or more of the remedies provided for under this section.

82.1025. 1. Sections 82.1025, 82.1027 and 82.1030 apply to a nuisance located within the boundaries of:

(1) Any city not within a county [or in];

(2) Any home rule city with at least three hundred fifty thousand inhabitants which is located in more than one county;

(3) Any home rule city with more than one hundred sixty thousand but fewer than two hundred thousand inhabitants; or

(4) Any home rule city with more than seventy-one thousand but fewer than seventy-nine thousand inhabitants.

2. Any property owner who owns property within one thousand two hundred feet of a parcel of property [which] that is alleged to be a nuisance may bring a nuisance action under this section against the offending property owner for the amount of damage created by such nuisance to the value

of the petitioner's property, including diminution in value of the petitioner's property, and court costs.

3. An action for injunctive relief to abate a nuisance may be brought under this section by:

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

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

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

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

(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 nuisance is not eliminated within sixty days after the date on the [written] mailed notice. 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 shall be provided by 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 sufficient evidence to establish that the notice was given. 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. A copy of a notice of citation issued by the city or county that shows the date the citation was issued shall be prima facie evidence of whether and for how long [a citation has been pending against the property or the property owner] the property has been in violation of the code or ordinance provisions described in the citation.

6. A proceeding under this section shall:

- (1) Be heard at the earliest practicable date; and
- (2) Be expedited in every way.

7. When a property owner or neighborhood organization brings an action under this section for injunctive relief to abate a nuisance, a prima facie case for injunctive relief shall be made upon proof that a nuisance exists on the property. [Such] An action for injunctive relief to abate a nuisance shall be heard by the court without a jury and shall not require proof that the party bringing the action has sustained damage or loss as a result of the nuisance.

8. [With respect to an action under this section against the owner of commercial or industrial property,] When a property owner or neighborhood organization bringing the action prevails in such action, such property owner or organization may be entitled to an award for [its reasonable] attorneys' fees and expenses, based on the amount of time reasonably expended, as ordered by the court, [incurred in bringing and prosecuting the action,] which award for attorneys' fees and expenses shall be entered as a judgment against the owner of the property on which the act or condition constituting the nuisance occurred or was located.

[9. Property owners bringing a lawsuit based on the prima facie case standard under subsections 5 and 7 of this section, or seeking attorney fees and expenses under subsection 8 of this section, shall be limited to lawsuits involving property ownership in any home rule city with more than three hundred fifty thousand inhabitants and located in more than one county or any city not within a county and shall otherwise be limited to the general standards for nuisance applying to other political subdivisions under subsection 1 of this section.]

82.1026. The governing body of any city not within a county, home rule city with more than four hundred thousand inhabitants and located in more than one county, home rule city with more than one hundred sixty thousand but fewer than two hundred thousand inhabitants, or home rule city with more than seventy-one thousand but fewer than seventy-nine thousand inhabitants may enact ordinances to provide for the building official of the city or any authorized representative of the building official to petition the circuit court in the county in which a vacant nuisance building or structure is located for the appointment of a

receiver to rehabilitate the building or structure, to demolish it, or to sell it to a qualified buyer.

82.1027. As used in section 82.1025 and 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, [or] any city not within a county, [which] any home rule city with more than one hundred sixty thousand but fewer than two hundred thousand inhabitants, or any home rule city with more than seventy-one thousand but fewer than seventy-nine thousand inhabitants that regulates fire prevention, animal control, noise control, property maintenance, building construction, health, safety, neighborhood detriment, sanitation, or nuisances;

(2) "Neighborhood organization", either:

(a) A Missouri not-for-profit corporation that:

a. Is a bonafide community organization formed for the purpose of neighborhood preservation or improvement;

b. 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 all or part of 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 [in any home rule city with more than three hundred fifty thousand inhabitants and located in more than one county, or in any city not within a county];

and

c. Whose board of directors is comprised of individuals, at least half of whom maintain their principal residence in a neighborhood the organization serves as described in the organization's articles of incorporation or bylaws; or

(b) An organization recognized by the federal Internal Revenue Service as tax exempt under the provisions of Internal Revenue Code Section 501(c)(3) (26 U.S.C. Section 501(c)(3), as amended, or the corresponding section of any future tax code, which has had a contract with any [home rule] city [with more than three hundred fifty thousand inhabitants and located in more than one county, or in any city not within a county] to furnish housing related services in that [municipality or county] city at any point during the five-year period preceding the filing of the action, and is in compliance with or completed such contract;

(3) "Nuisance", an activity or condition created, performed, maintained, or permitted to exist on private property that constitutes a code or ordinance violation, whether or not the property has been cited by the city or county in which the property is located; or, if the property is in a deteriorated condition, due to neglect or failure to reasonably maintain, abandonment, failure to repair after a fire, flood, or some other deterioration of the property, or there is clutter on the property such as abandoned automobiles, appliances, or similar objects; or, with respect to commercial, industrial, and vacant property, if the activity or condition on the property encourages, promotes, or substantially contributes to unlawful activity within three hundred feet of the property; [and the] or if any activity or condition [either]:

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

(b) Is injurious to the public health, safety, security, or welfare of neighboring residents or businesses; or

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

82.1031. ~~[No action shall be brought]~~ If a property owner sued under section 82.1025 and sections 82.1027 to 82.1030 [if the owner of the property that] pleads and proves that a condition alleged by the plaintiff to be a nuisance is the subject matter of [the action is in good-faith compliance with all orders] an order issued by the state department of natural resources, the United States Environmental Protection Agency, or the office of the Missouri attorney general, and further pleads and proves that the property is in compliance with such order with respect to such condition, such proof shall be an affirmative defense to plaintiff's claim that such condition is subject to one or more of the remedies provided for under section 82.1025 and sections 82.1027 to 82.1030.

140.984. 1. The income of a land bank agency shall be exempt from all taxation by the state and by any of its political subdivisions. Upon acquiring title to any real estate, a land bank agency shall immediately notify the county assessor and the county collector of such ownership; all taxes, special taxes, fines, and fees on such real estate shall be deemed satisfied by transfer to the land bank agency; and such property shall be exempt from all taxation during the land bank agency's ownership thereof, in the same manner and to the same extent as any other publicly owned real estate. Upon the sale or other disposition of any real estate held by it, the land bank agency shall immediately notify the county assessor and the county collector of such change of ownership. However, that such

tax exemption for improved and occupied real property held by the land bank agency as a lessor pursuant to a ground lease shall terminate upon the first occupancy, and the land bank agency shall immediately notify the county assessor and the county collector of such occupancy.

2. A land bank agency may acquire real property by gift, devise, transfer, exchange, foreclosure, purchase, or pursuant to sections 141.560 to 141.580 or section 141.821, except a land bank agency shall not acquire property located partially or wholly outside the boundaries of the county or municipality that established such land bank agency. [For purchases of real property not made through foreclosure or pursuant to sections 141.560 to 141.580, a land bank agency may only purchase real property if such property is adjacent to real property already owned by the land bank agency.]

3. A land bank agency may acquire property by purchase contracts, lease purchase agreements, installment sales contracts, and land contracts and may accept transfers from political subdivisions upon such terms and conditions as agreed to by the land bank agency and the political subdivision. A land bank agency may[, for the purpose of adding to a parcel already owned by the land bank agency,] bid on any parcel of real estate offered for sale, offered at a foreclosure sale under sections 140.220 to 140.250, offered at a sale conducted under section 140.190, 140.240, or 140.250, or offered at a foreclosure sale under section 141.550. Notwithstanding any other law to the contrary, any political subdivision may transfer to the land bank agency real property and interests in real property of the political subdivision on such terms and conditions and according to such procedures as determined by the political subdivision.

4. A land bank agency shall maintain all of its real property in accordance with the laws and ordinances of the jurisdictions in which the real property is located.

5. Upon issuance of a deed to a parcel of real estate to a land bank agency under subsection 4 of section 140.250, subsection 5 of section 140.405, other sale conducted under section 140.190, 140.240, or 140.250, or section 141.550, the land bank agency shall pay only the amount of the land bank agency's bid that exceeds the amount of all tax bills included in the judgment, interest, penalties, attorney's fees, taxes, and costs then due thereon. If the real estate is acquired in a delinquent land tax auction under subsection 4 of section 140.250, subsection 5 of section 140.405, or other sale conducted under section 140.190, 140.240, or 140.250, such excess shall be applied and distributed in accordance with section 140.230. If the real estate is acquired in a delinquent land tax auction under section 141.550, such excess shall be applied and distributed in accordance with subsections 3 and 4 of section 141.580, exclusive of subdivision (3) of subsection 3 of section 141.580. Upon issuance of a deed, the county collector shall mark the tax bills included in the judgment as "cancelled by sale to the land bank" and shall take credit for the full amount of such tax bills, including principal amount, interest, penalties, attorney's fees, and costs, on the county collector's books and in the county collector's statements with any other taxing authorities.

6. A land bank shall not own real property unless the property is wholly located within the boundaries of the county or municipality that established the land bank agency.

7. Within one year of the effective date of the ordinance, resolution, or rule passed establishing a municipal land bank agency under subsection 2 of section

140.981, the title to any real property that is located wholly within the municipality that created the land bank agency and that is held by a land trust created under subsection 1 of section 141.821 shall be transferred by deed from the land trust to such land bank agency, at the land bank agency's request.