

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 943

AN ACT

To repeal section 82.1025, RSMo, and to enact in lieu thereof one new section relating to nuisance actions, with penalty provisions.

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

Section A. Section 82.1025, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 82.1025, to read as follows:

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;

(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; or

(5) Any city with more than one hundred five thousand but fewer than one hundred twenty-five thousand inhabitants.

2. 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 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 mailed notice of intent to bring an action under this section, 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 mailed notice. If the notice 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 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. 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. 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.

9. In addition to any other penalties or costs associated with the abatement of a nuisance that are imposed pursuant to sections 82.1025 to 82.1031, any person or entity that is not a resident of this state and who is an owner of property found to have a code or ordinance violation shall be subject to a civil fine of two thousand dollars per violation. Any property found to have a code or ordinance violation and that is structurally unsafe or poses a threat to persons or other property shall have such nuisance abated within one year of the code or ordinance violation. Any such property that is not abated within one year, and any property with unpaid civil fines within two years of the imposition of the fine shall be subject to sale by the taxing jurisdiction in which the property is located. The property shall be sold in an amount that will satisfy the costs incurred for abating the property as well as any outstanding civil fines. Such sale shall coincide with the sale of delinquent properties under chapters 140 and 141.