

SENATE BILL NO. 621

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (15).

2355S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 82.1025, 82.1026, and 82.1027, RSMo, and to enact in lieu thereof three new sections relating to nuisance actions.

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

Section A. Sections 82.1025, 82.1026, and 82.1027, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 82.1025, 82.1026, and 82.1027, to read as follows: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 **[or in]**;

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

(3) **Any home rule city with more than one hundred sixty thousand but fewer than two hundred 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.

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

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

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

22 (2) A neighborhood organization, as defined in section
23 82.1027, on behalf of any person or persons who own property
24 within the boundaries of the neighborhood or neighborhoods
25 described in the articles of incorporation or bylaws of the
26 neighborhood organization and who could maintain a nuisance
27 action under this section or under the common law of private
28 nuisance, or on its own behalf with respect to a nuisance on
29 property anywhere within the boundaries of the neighborhood
30 or neighborhoods.

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

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

39 (2) The property owner of record at the last known
40 address of the property owner on file with the county or
41 city, or, if the property owner is a corporation or other
42 type of limited liability company, to the property owner's
43 registered agent at the agent's address of record;

44 that a nuisance exists and that legal action may be taken
45 against the owner of the property if the nuisance is not
46 eliminated within sixty days after the date on the **[written]**
47 **mailed** notice. If the notice **[sent by certified mail]** is

48 returned unclaimed or refused, designated by the post office
49 to be undeliverable, or signed for by a person other than
50 the addressee, then adequate and sufficient notice shall be
51 provided by posting a copy of the notice on the property
52 where the nuisance allegedly is occurring. A sworn
53 affidavit by the person who mailed or posted the notice
54 describing the date and manner that notice was given shall
55 be sufficient evidence to establish that the notice was
56 given. The notice shall specify:

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

63 5. A copy of a notice of citation issued by the city
64 or county that shows the date the citation was issued shall
65 be prima facie evidence of whether and for how long [a
66 citation has been pending against the property or the
67 property owner] **the property has been in violation of the
68 code or ordinance provisions described in the citation.**

69 6. A proceeding under this section shall:

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

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

80 8. [With respect to an action under this section
81 against the owner of commercial or industrial property,]
82 When a property owner or neighborhood organization bringing
83 the action prevails in such action, such property owner or
84 organization may be entitled to an award for [its]
85 reasonable attorneys' fees and expenses, as ordered by the
86 court, [incurred in bringing and prosecuting the action,]
87 which award for attorneys' fees and expenses shall be
88 entered as a judgment against the owner of the property on
89 which the act or condition constituting the nuisance
90 occurred or was located.

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

 82.1026. The governing body of any **city not within a**
2 **county**, home rule city with more than four hundred thousand
3 inhabitants and located in more than one county, **or home**
4 **rule city with more than one hundred sixty thousand but**
5 **fewer than two hundred thousand inhabitants** may enact
6 ordinances to provide for the building official of the city
7 or any authorized representative of the building official to
8 petition the circuit court in the county in which a vacant
9 nuisance building or structure is located for the
10 appointment of a receiver to rehabilitate the building or

11 structure, to demolish it, or to sell it to a qualified
12 buyer.

82.1027. As used in section 82.1025 and sections
2 82.1027 to 82.1030, the following terms mean:

3 (1) "Code or ordinance violation", a violation under
4 the provisions of a municipal code or ordinance of any home
5 rule city with more than four hundred thousand inhabitants
6 and located in more than one county, [or] any city not
7 within a county, **[which] or any home rule city with more**
8 **than one hundred sixty thousand but fewer than two hundred**
9 **thousand inhabitants that** regulates fire prevention, animal
10 control, noise control, property maintenance, building
11 construction, health, safety, neighborhood detriment,
12 sanitation, or nuisances;

13 (2) "Neighborhood organization", either:

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

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

17 b. Whose articles of incorporation or bylaws specify
18 that one of the purposes for which the corporation is
19 organized is the preservation and protection of residential
20 and community property values in all or part of a
21 neighborhood or neighborhoods with geographic boundaries
22 that conform to the boundaries of not more than two
23 adjoining neighborhoods recognized by the planning division
24 of the city or county in which the neighborhood or
25 neighborhoods are located in any home rule city with more
26 than three hundred fifty thousand inhabitants and located in
27 more than one county, [or in] any city not within a county,
28 **or any home rule city with more than one hundred sixty**
29 **thousand but fewer than two hundred thousand inhabitants;** and

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

35 (b) An organization recognized by the federal Internal
36 Revenue Service as tax exempt under the provisions of
37 Internal Revenue Code Section 501(c)(3) **(26 U.S.C. Section**
38 **501(c)(3))**, **as amended**, or the corresponding section of any
39 future tax code, which has had a contract with any home rule
40 city with more than three hundred fifty thousand inhabitants
41 and located in more than one county, or in any city not
42 within a county to furnish housing related services in that
43 municipality or county at any point during the five-year
44 period preceding the filing of the action, and is in
45 compliance with or completed such contract;

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

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

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

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

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