

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0430-07
Bill No.: HCS for SS for SB 3
Subject: Political Subdivisions; Liens; Credit and Bankruptcy; Kansas City; Property, Real and Personal; St. Louis City; and St. Louis County
Type: Original
Date: May 13, 2019

Bill Summary: This proposal changes the laws regarding property regulations in certain cities and counties.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Local Government	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL ANALYSIS

ASSUMPTION

Due to time constraints of less than **5** hours, **Oversight** was unable to receive some of the agency responses in a timely manner and performed limited analysis. Oversight has presented his fiscal note on the best current information that we have or on prior year information regarding a similar bill. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

§82.462 - Securing abandoned property

In response to a previous version, officials at the **City of Kansas City** assumed this may have a negative impact on the City in an indeterminate amount. A private citizen's action of boarding, mowing, removing debris and graffiti from City owned properties may result in injury and harm from pre-existing conditions on the property and cause the City to be exposed to unnecessary liability. Kansas City's concerns would be alleviated if a provision was added to §82.462 to create an exemption for properties owned by a political subdivision.

Oversight assumes should this proposal be enacted, the City would take some kind of legal action to post notice of "enter at your own risk" or have liability insurance on City owned property which would not make the City liable to claims of any private citizen's action. Therefore, Oversight will reflect a \$0 fiscal impact for this proposal.

In response to a previous version, officials at **St. Louis County** assumed no fiscal impact from this proposal.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, St. Louis City was requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov.

Oversight notes this version adds the City of Independence, the City of St. Joseph and the City of Springfield to section 82.462 of the proposal in the Perfected SS for SB 3. Oversight reached out to the City of Independence for a response, but has not received information for the fiscal note. Upon the receipt of agency responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval of the chairperson of the Joint Committee on Legislative Research to publish a new fiscal note.

ASSUMPTION (continued)

§§82.1025, 82.1027, 82.1030, 82.1031 - Modifies Nuisance Actions

In response to a previous version, officials at the **City of Kansas City** assumed this legislation could have a negative fiscal impact on the City of Kansas City, Missouri, because although the legislation includes a section limiting its provisions to private property, Kansas City is concerned that an argument could be made that Kansas City's Land Bank/Homestead Authority property is private property and could then be sued pursuant to this legislation. Kansas City's concerns with this legislation would be alleviated if language were added to the Nuisance definition in 82.1027 (3) creating an exception for cities by stating: "...an activity or condition created, performed, maintained, or permitted to exist on private property not owned by the government or municipal entity 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".

Oversight will reflect the City of Kansas City's assumption for this proposal and show possible costs to local governments of \$0 (no suits brought or Homestead Authorities may not be sued) to an unknown cost if Homestead Authorities are sued successfully.

In response to similar legislation from this year, SCS for SB 203, officials at **St. Louis County** assumed no fiscal impact from this proposal.

Oversight only reflects the responses that we have received from state agencies and political subdivisions; however, St. Louis City was requested to respond to this proposed legislation but did not. For a general listing of political subdivisions included in our database, please refer to www.legislativeoversight.mo.gov

§82.1026 - Modifies provisions for the abatement of vacant nuisance properties in Kansas City

In response to a previous version, officials at the **City of Kansas City (KC)** assumed a positive fiscal impact could be experienced by this legislation because it would improve the ability to convert vacant lots to productive use, thereby decreasing the costs to the taxpayers of abating nuisance conditions on vacant lots, and increasing property tax revenue.

Oversight assumes this proposal modifies provisions for the abatement of vacant nuisance properties in Kansas City. Oversight assumes actions by a governing body by ordinance could result in an unknown savings to KC. Therefore, Oversight will reflect a \$0 or unknown savings for KC.

ASSUMPTION (continued)

In response to similar legislation from this year, SB 412, officials at the **Office of the Attorney General** assumed no fiscal impact from this proposal.

Oversight notes that the Office of the Attorney General has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for this agency.

Bill as a Whole

Officials at the **Office of the Attorney General**, the **Department of Natural Resources** and the **Office of Prosecution Services** each assume no fiscal impact to their respective agencies from this proposal.

In response to a previous version, officials at the **Office of the State Courts Administrator** and the **Office of the State Public Defender** each assumed no fiscal impact to their respective agencies from this proposal.

Oversight notes that the Office of the State Courts Administrator, the Department of Natural Resources, the Office of the State Public Defender and the Office of Prosecution Services each has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
LOCAL POLITICAL SUBDIVISIONS			
<u>Savings</u> - Kansas City - on the abatement of vacant nuisance property (§ 82.1026)	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
<u>Cost</u> - potential litigation cost to private property that is owned by a governmental or municipal entity (§§82.1025, 82.1027, 82.1030, 82.1031)	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal. However, there could be an indirect impact to small businesses as a result of this proposal.

FISCAL DESCRIPTION

This act modifies property regulations in certain cities and counties.

ABANDONED REAL PROPERTY IN CERTAIN CITIES (Section 82.462)

This act allows a person who is not the owner of real property in Kansas City, St. Louis County, Independence, St. Joseph, Springfield or St. Louis City or who is a creditor holding a lien interest on the property, and who suspects that the real property may be abandoned, to enter the premises to visually inspect the property to determine whether it is abandoned. Any person who enters the property, according to the provisions of the act, shall not have a right to a mechanics lien. If the person makes a good faith determination based on the inspection that the property is abandoned, the person may secure the property, remove trash or debris from the grounds, landscape, maintain, or mow the grounds, and remove or paint over graffiti. This act provides immunity for the person entering the property from claims of civil and criminal trespass and all other civil immunity, as well as barring an action against the property owners in certain circumstances, unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct.

FISCAL DESCRIPTION (continued)

NUISANCE ACTION AGAINST ANOTHER PROPERTY OWNER IN CERTAIN CITIES AND COUNTIES (Sections 82.1025, 82.1027, and 82.1030)

This act modifies how actions against another property owner whose property is a nuisance are brought in certain cities and counties. Specifically this act modifies how notice of a nuisance is given to the property owner or tenant. Also, this act modifies how proceedings for injunctive relief against the property owner under this act are conducted.

The definitions of the terms "nuisance" and "neighborhood organizations", as they are used in this act, are modified. Property owners and certain neighborhood organizations seeking injunctive relief under this act will no longer have to show they are suffering actual damages as a result of the nuisance in order to bring such an action. Additionally, this act permits attorney's fees being awarded in certain circumstances to the party who brought the action.

Finally, this act modifies a defense available to property owners who are acting in good faith to comply with all orders rather than an order issued by the Department of Natural Resources, the U.S. Environmental Protection Agency, or the Office of the Attorney General.

Modifies provisions for the abatement of vacant nuisance properties (Section 82.1026)

Under current law, the Kansas City Council may enact an ordinance to allow the city building official to petition the county circuit court for the appointment of a receiver to rehabilitate a vacant nuisance building or structure, demolish it, or sell it to a qualified buyer.

This act modifies the provision to provide that the city can petition the circuit court. In addition, rather than allowing a sale to a qualified buyer, this act provides that the property may be sold to a buyer who can demonstrate an ability to abate the nuisance and vacancy.

Under this act, the court must maintain jurisdiction over the matter and the property until the city dismisses the case or the nuisance and vacancy is abated.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

City of Kansas City
Office of the State Courts Administrator
St. Louis County
Department of Natural Resources
Office of the State Public Defender
Office of the Attorney General
Office of Prosecution Services



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Director
May 13 2019

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Assistant Director
May 13, 2019