

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1002
94TH GENERAL ASSEMBLY

Reported from the Committee on Local Government April 10, 2008 with recommendation that House Committee Substitute for Senate Bill No. 1002 Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4531L.02C

AN ACT

To repeal section 89.120, as enacted by senate committee substitute for house substitute for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly, second regular session, and section 89.120, as enacted by senate committee substitute for house bill no. 1352, eighty-ninth general assembly, second regular session, and to enact in lieu thereof one new section relating to zoning violation remedies, with penalty provisions.

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

Section A. Section 89.120, as enacted by senate committee substitute for house substitute
2 for house committee substitute for house bills nos. 977 & 1608, eighty-ninth general assembly,
3 second regular session, and section 89.120, as enacted by senate committee substitute for house
4 bill no. 1352, eighty-ninth general assembly, second regular session, is repealed and one new
5 section enacted in lieu thereof, to be known as section 89.120, to read as follows:

89.120. 1. In case any building or structure is erected, constructed, reconstructed,
2 altered, converted, or maintained, or any building, structure, or land is used in violation of
3 sections 89.010 to 89.140 or of any ordinance or other regulation made under authority conferred
4 hereby, the proper local authorities of the municipality, in addition to other remedies, may
5 institute any appropriate action or proceedings to prevent such unlawful erection, construction,
6 reconstruction, alteration, conversion, maintenance, or use, to restrain, correct, or abate such
7 violation, to prevent the occupancy of such building, structure, or land, or to prevent any illegal

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 act, conduct, business, or use in or about such premises. Such regulations shall be enforced by
9 an officer empowered to cause any building, structure, place, or premises to be inspected and
10 examined and to order in writing the remedying of any condition found to exist therein or thereat
11 in violation of any provision of the regulations made under authority of sections 89.010 to
12 89.140.

13 2. The owner or general agent of a building or premises where a violation of any
14 provision of said regulations has been committed or shall exist, or the lessee or tenant of an
15 entire building or entire premises where such violation has been committed or shall exist, or the
16 owner, general agent, lessee, or tenant of any part of the building or premises in which such
17 violation has been committed or shall exist, or the general agent, architect, builder, contractor,
18 or any other person who commits, takes part or assists in any such violation, or who maintains
19 any building or premises in which any such violation shall exist shall be guilty of a misdemeanor
20 punishable as follows:

21 (1) In any [municipality contained wholly or partially within a county] **city** with [a
22 population of over six hundred thousand and less than nine] **more than three** hundred thousand
23 **inhabitants**, by a fine of not less than ten dollars and not more than five hundred dollars for each
24 and every day that such violation continues, or by imprisonment for ten days for each and every
25 day such violation shall continue, or by both such fine and imprisonment in the discretion of the
26 court. Notwithstanding the provisions of section 82.300, RSMo, however, for the second and
27 subsequent offenses involving the same violation at the same building or premises, the
28 punishment shall be a fine of not less than two hundred and fifty dollars or more than one
29 thousand dollars for each and every day that such violation shall continue, or by imprisonment
30 for ten days for each and every day such violation shall continue, or by both such fine and
31 imprisonment in the discretion of the court;

32 (2) In all other municipalities, by a fine of not less than ten dollars and not more than
33 [one] **two** hundred **fifty** dollars for each and every day that such violation continues, [but if the
34 offense be willful on conviction thereof, the punishment shall be a fine of not less than one
35 hundred dollars or more than two hundred and fifty dollars for each and every day that such
36 violation shall continue] or by imprisonment for ten days for each and every day such violation
37 shall continue, or by both such fine and imprisonment in the discretion of the court.
38 **Notwithstanding the provisions of section 82.300, RSMo, for the second and subsequent**
39 **offenses involving the same violation at the same building or premises, the punishment**
40 **shall be a fine of not less than one hundred dollars or more than five hundred dollars for**
41 **each and every day that such violation shall continue, or by imprisonment for ten days for**
42 **each and every day such violation shall continue, or by both such fine and imprisonment**
43 **in the discretion of the court.**

44 3. Any such person who, having been served with an order to remove any such violation,
45 shall fail to comply with such order within ten days after such service or shall continue to violate
46 any provision of the regulations made under authority of sections 89.010 to 89.140 in the respect
47 named in such order shall also be subject to a civil penalty of two hundred and fifty dollars.

 [89.120. 1. In case any building or structure is erected, constructed,
2 reconstructed, altered, converted or maintained, or any building, structure or land
3 is used in violation of sections 89.010 to 89.140 or of any ordinance or other
4 regulation made under authority conferred hereby, the proper local authorities of
5 the municipality, in addition to other remedies, may institute any appropriate
6 action or proceedings to prevent such unlawful erection, construction,
7 reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or
8 abate such violation, to prevent the occupancy of such building, structure, or
9 land, or to prevent any illegal act, conduct, business, or use in or about such
10 premises. Such regulations shall be enforced by an officer empowered to cause
11 any building, structure, place or premises to be inspected and examined and to
12 order in writing the remedying of any condition found to exist therein or thereat
13 in violation of any provision of the regulations made pursuant to the authority of
14 sections 89.010 to 89.140.

 2. Except as provided in subsection 4 of this section, the owner or general
15 agent of a building or premises where a violation of any provision of said
16 regulations has been committed or shall exist, or the lessee or tenant of an entire
17 building or entire premises where such violation has been committed or shall
18 exist, or the owner, general agent, lessee or tenant of any part of the building or
19 premises in which such violation has been committed or shall exist, or the
20 general agent, architect, builder, contractor or any other person who commits,
21 takes part or assists in any such violation or who maintains any building or
22 premises in which any such violation shall exist shall be guilty of a misdemeanor
23 punishable by a fine of not less than ten dollars and not more than two hundred
24 fifty dollars for each and every day that such violation continues or by
25 imprisonment for ten days for each and every day such violation shall continue
26 or by both such fine and imprisonment in the discretion of the court.
27 Notwithstanding the provisions of section 82.300, RSMo, however, for the
28 second and subsequent offenses involving the same violation at the same building
29 or premises, the punishment shall be a fine of not less than one hundred dollars
30 or more than five hundred dollars for each and every day that such violation shall
31 continue or by imprisonment for ten days for each and every day such violation
32 shall continue or by both such fine and imprisonment in the discretion of the
33 court.
34

 3. Any such person who having been served with an order to remove any
35 such violation shall fail to comply with such order within ten days after such
36 service or shall continue to violate any provision of the regulations made under
37 authority of sections 89.010 to 89.140 in the respect named in such order shall
38 also be subject to a civil penalty of two hundred and fifty dollars.
39

40 4. In a city with a population of more than three hundred fifty thousand,
41 the owner or general agent of a building or premises where a violation of any
42 provision of said regulations has been committed or shall exist, or the lessee or
43 tenant of an entire building or entire premises where such violation has been
44 committed or shall exist, or the owner, general agent, lessee or tenant of any part
45 of the building or premises in which such violation has been committed or shall
46 exist, or the general agent, architect, builder, contractor or any other person who
47 commits, takes part or assists in any such violation or who maintains any building
48 or premises in which any such violation shall exist shall be guilty of a
49 misdemeanor punishable by a fine of not less than ten dollars and not more than
50 two hundred fifty dollars for each and every day that such violation continues, but
51 if the offense be willful on conviction thereof, the punishment shall be a fine of
52 not less than one hundred dollars or more than five hundred dollars for each and
53 every day that such violation shall continue or by imprisonment for ten days for
54 each and every day such violation shall continue or by both such fine and
55 imprisonment in the discretion of the court.]

✓