

FIRST REGULAR SESSION

HOUSE BILL NO. 1348

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HAAHR.

2688H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 67.410, RSMo, and to enact in lieu thereof one new section relating to ordinances for the abatement of public nuisances, with a penalty provision.

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

Section A. Section 67.410, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 67.410, to read as follows:

67.410. 1. Except as provided in subsection 3 of this section, any ordinance enacted pursuant to section 67.400 shall:

(1) Set forth those conditions detrimental to the health, safety or welfare of the residents of the city, town, village, or county the existence of which constitutes a nuisance;

(2) Provide for duties of inspectors with regard to such buildings or structures and shall provide for duties of the building commissioner or designated officer or officers to supervise all inspectors and to hold hearings regarding such buildings or structures;

(3) Provide for service of adequate notice of the declaration of nuisance, which notice shall specify that the property is to be vacated, if such be the case, reconditioned or removed, listing a reasonable time for commencement; and may provide that such notice be served either by personal service or [by certified] mail[,] **so long as a signature from the recipient is required for delivery and a return receipt is requested**, but if service cannot be had by either of these modes of service, then service may be had by publication. The ordinances shall further provide that the owner, occupant, lessee, mortgagee, agent, and all other persons having an interest in the building or structure as shown by the land records of the recorder of deeds of the county wherein the land is located shall be made parties;

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.

17 (4) Provide that upon failure to commence work of reconditioning or demolition within
18 the time specified or upon failure to proceed continuously with the work without unnecessary
19 delay, the building commissioner or designated officer or officers shall call and have a full and
20 adequate hearing upon the matter, giving the affected parties at least ten days' written notice of
21 the hearing. Any party may be represented by counsel, and all parties shall have an opportunity
22 to be heard. After the hearings, if the evidence supports a finding that the building or structure
23 is a nuisance or detrimental to the health, safety, or welfare of the residents of the city, town,
24 village, or county, the building commissioner or designated officer or officers shall issue an order
25 making specific findings of fact, based upon competent and substantial evidence, which shows
26 the building or structure to be a nuisance and detrimental to the health, safety, or welfare of the
27 residents of the city, town, village, or county and ordering the building or structure to be
28 demolished and removed, or repaired. If the evidence does not support a finding that the
29 building or structure is a nuisance or detrimental to the health, safety, or welfare of the residents
30 of the city, town, village, or county, no order shall be issued;

31 (5) Provide that if the building commissioner or other designated officer or officers issue
32 an order whereby the building or structure is demolished, secured, or repaired, or the property
33 is cleaned up, the cost of performance shall be certified [to the city clerk or officer in charge of
34 finance] **by such commissioner or officer**, who shall cause a special tax bill or assessment
35 therefor against the property to be prepared and collected by the city collector or other official
36 collecting taxes, unless the building or structure is demolished, secured or repaired by a
37 contractor pursuant to an order issued by the city, town, village, or county and such contractor
38 files a mechanic's lien against the property where the dangerous building is located. The
39 contractor may enforce this lien as provided in sections 429.010 to 429.360. Except as provided
40 in subsection 3 of this section, at the request of the taxpayer the tax bill may be paid in
41 installments over a period of not more than ten years. The tax bill from date of its issuance shall
42 be deemed a personal debt against the property owner and shall also be a lien on the property
43 until paid. **Whenever there is an expenditure of funds of any home rule city with more than**
44 **one hundred fifty-five thousand but fewer than two hundred thousand inhabitants to cause**
45 **the building or structure to be boarded or whenever the property is secured, repaired, or**
46 **cleaned without necessary permits, all unpaid board-up costs and permit fees, and**
47 **associated administrative costs, may be added to the real estate taxes of the property. If**
48 **such costs or fees are added to the annual real estate tax bill for the property and not paid,**
49 **the real estate taxes shall be considered delinquent, and the collection thereof shall be**
50 **governed by the laws applicable to delinquent real estate taxes.** A city not within a county
51 or a city with a population of at least four hundred thousand located in more than one county,
52 notwithstanding any charter provision to the contrary, may, by ordinance, provide that upon

53 determination by the city that a public benefit will be gained the city may discharge the special
54 tax bill, including the costs of tax collection, accrued interest and attorneys fees, if any.

55 2. If there are proceeds of any insurance policy based upon a covered claim payment
56 made for damage or loss to a building or other structure caused by or arising out of any fire,
57 explosion, or other casualty loss, the ordinance may establish a procedure for the payment of up
58 to twenty-five percent of the insurance proceeds, as set forth in this subsection. The order or
59 ordinance shall apply only to a covered claim payment which is in excess of fifty percent of the
60 face value of the policy covering a building or other structure:

61 (1) The insurer shall withhold from the covered claim payment up to twenty-five percent
62 of the covered claim payment, and shall pay such moneys to the city to deposit into an
63 interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority
64 over any obligation under the order or ordinance;

65 (2) The city or county shall release the proceeds and any interest which has accrued on
66 such proceeds received under subdivision (1) of this subsection to the insured or as the terms of
67 the policy and endorsements thereto provide within thirty days after receipt of such insurance
68 moneys, unless the city or county has instituted legal proceedings under the provisions of
69 subdivision (5) of subsection 1 of this section. If the city or county has proceeded under the
70 provisions of subdivision (5) of subsection 1 of this section, all moneys in excess of that
71 necessary to comply with the provisions of subdivision (5) of subsection 1 of this section for the
72 removal, securing, repair and cleanup of the building or structure, and the lot on which it is
73 located, less salvage value, shall be paid to the insured;

74 (3) If there are no proceeds of any insurance policy as set forth in this subsection, at the
75 request of the taxpayer, the tax bill may be paid in installments over a period of not more than
76 ten years. The tax bill from date of its issuance shall be a lien on the property until paid;

77 (4) This subsection shall apply to fire, explosion, or other casualty loss claims arising
78 on all buildings and structures;

79 (5) This subsection does not make the city or county a party to any insurance contract,
80 and the insurer is not liable to any party for any amount in excess of the proceeds otherwise
81 payable under its insurance policy.

82 3. The governing body of any city not within a county and the governing body of any city
83 with a population of three hundred fifty thousand or more inhabitants which is located in more
84 than one county may enact their own ordinances pursuant to section 67.400 and are exempt from
85 subsections 1 and 2 of this section.

86 4. Notwithstanding the provisions of section 82.300, any city may prescribe and enforce
87 and collect fines and penalties for a breach of any ordinance enacted pursuant to section 67.400
88 or this section and to punish the violation of such ordinance by a fine or imprisonment, or by

89 both fine and imprisonment. Such fine may not exceed one thousand dollars, unless the owner
90 of the property is not also a resident of the property, then such fine may not exceed two thousand
91 dollars.

92 5. The ordinance may also provide that a city not within a county or a city with a
93 population of at least three hundred fifty thousand located in more than one county may seek to
94 recover the cost of demolition prior to the occurrence of demolition, as described in this
95 subsection. The ordinance may provide that if the building commissioner or other designated
96 officer or officers issue an order whereby the building or structure is ordered to be demolished,
97 secured or repaired, and the owner has been given an opportunity for a hearing to contest such
98 order, then the building commissioner or other designated officer or officers may solicit no less
99 than two independent bids for such demolition work. The amount of the lowest bid, including
100 offset for salvage value, if any, plus reasonable anticipated costs of collection, including
101 attorney's fees, shall be certified to the city clerk or officer in charge of finance, who shall cause
102 a special tax bill to be issued against the property owner to be prepared and collected by the city
103 collector or other official collecting taxes. The municipal clerk or other officer in charge of
104 finance shall discharge the special tax bill upon documentation by the property owner of the
105 completion of the ordered repair or demolition work. Upon determination by the municipal clerk
106 or other officer in charge of finance that a public benefit is secured prior to payment of the
107 special tax bill, the municipal clerk or other officer in charge of finance may discharge the
108 special tax bill upon the transfer of the property. The payment of the special tax bill shall be held
109 in an interest-bearing account. Upon full payment of the special tax bill, the building
110 commissioner or other designated officer or officers shall, within one hundred twenty days
111 thereafter, cause the ordered work to be completed, and certify the actual cost thereof, including
112 the cost of tax bill collection and attorney's fees, to the city clerk or other officer in charge of
113 finance who shall, if the actual cost differs from the paid amount by greater than two percent of
114 the paid amount, refund the excess payment, if any, to the [payor] **payer**, or if the actual amount
115 is greater, cause a special tax bill or assessment for the difference against the property to be
116 prepared and collected by the city collector or other official collecting taxes. If the building
117 commissioner or other designated officer or officers shall not, within one hundred twenty days
118 after full payment, cause the ordered work to be completed, then the full amount of the payment,
119 plus interest, shall be repaid to the [payor] **payer**. Except as provided in subsection 2 of this
120 section, at the request of the taxpayer the tax bill for the difference may be paid in installments
121 over a period of not more than ten years. The tax bill for the difference from the date of its
122 issuance shall be deemed a personal debt against the property owner and shall also be a lien on
123 the property until paid.

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