

FIRST REGULAR SESSION

# HOUSE BILL NO. 716

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FALKNER.

1838H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 82.1025, RSMo, and to enact in lieu thereof one new section relating to nuisance actions for deteriorated property.

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*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Section A. Section 82.1025, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 82.1025, to read as follows: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 ~~[or in]~~;

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

(3) **Any home rule city with more than seventy-one thousand but fewer than seventy-nine thousand inhabitants.**

2. Any property owner who owns property within one thousand two hundred feet of a parcel of property which 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

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

23 4. An action shall not be brought under this section until sixty days after the party  
24 who brings the action has sent written notice of intent to bring an action under this section by  
25 certified mail, return receipt requested, postage prepaid to:

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

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

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32 that a nuisance exists and that legal action may be taken against the owner of the property if  
33 the nuisance is not eliminated within sixty days after the date on the written notice. If the  
34 notice sent by certified mail is returned unclaimed or refused, designated by the post office to  
35 be undeliverable, or signed for by a person other than the addressee, then adequate and  
36 sufficient notice shall be provided by posting a copy of the notice on the property where the  
37 nuisance allegedly is occurring. A sworn affidavit by the person who mailed or posted the  
38 notice describing the date and manner that notice was given shall be sufficient evidence to  
39 establish that the notice was given. The notice shall specify:

40 (a) The act or condition that constitutes the nuisance;

41 (b) The date the nuisance was first discovered;

42 (c) The address of the property and location on the property where the act or  
43 condition that constitutes the nuisance is allegedly occurring or exists; and

44 (d) The relief sought in the action.

45 5. A copy of a notice of citation issued by the city or county that shows the date the  
46 citation was issued shall be prima facie evidence of whether and for how long a citation has  
47 been pending against the property or the property owner.

48 6. A proceeding under this section shall:

49 (1) Be heard at the earliest practicable date; and

50 (2) Be expedited in every way.

51 7. When a property owner or neighborhood organization brings an action under this  
52 section for injunctive relief to abate a nuisance, a prima facie case for injunctive relief shall be

53 made upon proof that a nuisance exists on the property. Such an action shall not require proof  
54 that the party bringing the action has sustained damage or loss as a result of the nuisance.

55 8. With respect to an action under this section against the owner of commercial or  
56 industrial property, when a property owner or neighborhood organization bringing the action  
57 prevails in such action, such property owner or organization may be entitled to an award for  
58 its reasonable attorneys' fees and expenses, as ordered by the court, incurred in bringing and  
59 prosecuting the action, which award for attorneys' fees and expenses shall be entered as a  
60 judgment against the owner of the property on which the act or condition constituting the  
61 nuisance occurred or was located.

62 9. Property owners bringing a lawsuit based on the prima facie case standard under  
63 subsections 5 and 7 of this section, or seeking ~~attorney~~ **attorneys'** fees and expenses under  
64 subsection 8 of this section, shall be limited to lawsuits involving property ownership in any  
65 home rule city with more than three hundred fifty thousand inhabitants and located in more  
66 than one county ~~or~~, any city not within a county, **or any home rule city with more than**  
67 **seventy-one thousand but fewer than seventy-nine thousand inhabitants** and shall  
68 otherwise be limited to the general standards for nuisance applying to other political  
69 subdivisions under subsection 1 of this section.

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