

FIRST REGULAR SESSION

HOUSE BILL NO. 739

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OWEN.

1915H.011

DANA RADEMAN MILLER, Chief Clerk

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Section A. Sections 82.1025, 82.1026, and 82.1027, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 82.1025, 82.1026, and 82.1027, to read as follows: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

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]~~ **mailed** notice of intent to bring an action under this
25 section ~~[by 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;

31

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]~~ **mailed** notice.
34 If the notice ~~[sent by certified mail]~~ is returned unclaimed or refused, designated by the post
35 office to be undeliverable, or signed for by a person other than the addressee, then adequate
36 and sufficient notice shall be provided by posting a copy of the notice on the property where
37 the 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]~~ **the property has been in violation
48 of the code or ordinance provisions described in the citation.**

49 6. A proceeding under this section shall:

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

51 (2) Be expedited in every way.

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

54 made upon proof that a nuisance exists on the property. ~~[Such]~~ An action **for injunctive**
55 **relief to abate a nuisance shall be heard by the court without a jury and** shall not require
56 proof that the party bringing the action has sustained damage or loss as a result of the
57 nuisance.

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

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

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

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

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

10 (2) "Neighborhood organization", either:

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

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

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

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

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

33 (3) "Nuisance", an activity or condition created, performed, maintained, or permitted
34 to exist on private property that constitutes a code or ordinance violation, whether or not the
35 property has been cited by the city or county in which the property is located; or, if the
36 property is in a deteriorated condition, due to neglect or failure to reasonably maintain,
37 abandonment, failure to repair after a fire, flood, or some other deterioration of the property,
38 or there is clutter on the property such as abandoned automobiles, appliances, or similar
39 objects; or, with respect to commercial, industrial, and vacant property, if the activity or
40 condition on the property encourages, promotes, or substantially contributes to unlawful
41 activity within three hundred feet of the property; ~~[and the]~~ **or if any** activity or condition
42 ~~[either]:~~

43 (a) Diminishes the value of the neighboring property; or

44 (b) Is injurious to the public health, safety, security, or welfare of neighboring
45 residents or businesses; or

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