

SECOND REGULAR SESSION

# HOUSE BILL NO. 1796

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MURPHY.

5300H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal sections 67.280, 436.345, 442.404, 534.602, 534.604, and 569.200, RSMo, and to enact in lieu thereof seven new sections relating to property rights, with penalty provisions.

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

Section A. Sections 67.280, 436.345, 442.404, 534.602, 534.604, and 569.200, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 67.280, 67.488, 436.345, 442.404, 534.602, 534.604, and 569.200, to read as follows:

67.280. 1. As used in this section, the following terms mean:

- (1) "Code", any published compilation of rules prepared by various technical trade associations, federal agencies, this state or any agency thereof, but shall be limited to: regulations concerning the construction of buildings and continued occupancy thereof; mechanical, plumbing, and electrical construction; and fire prevention;
- (2) "Community", any county, fire protection district or municipality;
- (3) "County", any county in the state;
- (4) "Fire protection district", any fire protection district in the state;
- (5) "Municipality", any incorporated city, town or village.

2. Any community, if the community otherwise has the power under the law to adopt such an ordinance, may adopt or repeal an ordinance which incorporates by reference the provisions of any code or portions of any code, or any amendment thereof, properly identified as to date and source, without setting forth the provisions of such code in full. At least one copy of such code, portion or amendment which is incorporated or adopted by reference, shall be filed in the office of the clerk of the community and there kept available for public use,

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.

16 inspection, and examination. The filing requirements herein prescribed shall not be deemed  
17 to be complied with unless the required copies of such codes, portion, or amendment or public  
18 record are filed with the clerk of such community for a period of ninety days prior to the  
19 adoption of the ordinance which incorporates such code, portion, or amendment by reference.

20 3. Any ordinance adopting a code, portion, or amendment by reference shall state the  
21 penalty for violating such code, portion, or amendment, or any provisions thereof separately,  
22 and no part of any such penalty shall be incorporated by reference.

23 4. (1) **Notwithstanding any other provision of law to the contrary, no county or**  
24 **municipality shall enact, adopt, or maintain any ordinance, resolution, regulation, code,**  
25 **or policy that mandates an owner, builder, or developer to implement green or otherwise**  
26 **excessive building design and construction practices that threaten affordability in the**  
27 **construction, maintenance, repair, or renovation of one- or two-family dwellings,**  
28 **condominiums, or multiunit townhouses including, but not limited to:**

29 (a) Sustainable building standards or features;

30 (b) High-performance standards or features;

31 (c) Energy efficiency standards or features;

32 (d) Environmentally responsive standards or features;

33 (e) Standards or features exceeding standards or features defined in the 2009  
34 International Residential Code (IRC); or

35 (f) Standards established in the 2009 International Energy Conservation Code  
36 (IECC).

37 (2) An ordinance, resolution, regulation, code, or policy enacted, adopted, or  
38 maintained in violation of this subsection shall be null and void.

67.488. 1. This section shall be known and may be cited as the "Building Permit  
2 Reform Act".

3 2. For purposes of this section, the term "exempt homeowner" means a resident,  
4 noncorporate owner of a detached, single-family residence.

5 3. (1) No political subdivision shall require an exempt homeowner to obtain any  
6 license, certification, or professional registration or submit to any examination or testing  
7 as a condition of applying for or using a building or construction permit, provided all  
8 work is performed by the owner or other current resident.

9 (2) If an exempt homeowner transfers ownership of the property within one year  
10 of completing any work performed under the provisions of this subsection, the relevant  
11 political subdivision is permitted to assess a one-time administrative fee in an amount  
12 not to exceed five thousand dollars. The homeowner shall be informed of this potential  
13 administrative fee at the time of permit application.

14           **(3) Nothing in this subsection shall be construed to prohibit the enforcement of**  
15 **any applicable building codes or relevant inspections as otherwise required by**  
16 **ordinance or law.**

17           **(4) Nothing in this subsection shall be construed to prohibit an owner from**  
18 **hiring a contractor otherwise authorized by law to perform work on behalf of the owner.**

19           **(5) The provisions of this subsection shall not apply to:**

20           **(a) Any structure being rented, leased, subleased, or otherwise occupied outside**  
21 **of the owner's principal residence;**

22           **(b) Any gas appliance installation or repair or any work that requires the**  
23 **installation or modification of any device or delivery system that utilizes a combustible**  
24 **fuel source; or**

25           **(c) The act of making a direct connection to publicly provided water or sewer**  
26 **service, or the modification to such existing connections at the point of service.**

27           **4. No political subdivision shall require any permit, license, variance, or other**  
28 **type of prior approval for an exempt homeowner to perform any of the following**  
29 **activities, provided all work is performed by the owner or other current resident:**

30           **(1) Replacing an existing electric appliance with a substantially similar one,**  
31 **provided no major additions or modifications to existing building wiring are performed;**

32           **(2) Replacing an existing sink, faucet, or dishwasher, provided no major**  
33 **modifications to existing building plumbing are performed;**

34           **(3) Repairing, replacing, or installing gypsum board, plaster, or any other**  
35 **nonstructural interior wall covering or cladding; and**

36           **(4) Repairing, replacing, or installing carpet, tile, vinyl, or other floor coverings.**

37           **5. Any political subdivision that fails to perform an inspection under a permit**  
38 **within ten business days of a request made by an exempt homeowner shall refund fifty**  
39 **percent of any charges assessed for the permit. If the inspection is not performed within**  
40 **twenty business days from the initial request, the political subdivision shall waive the**  
41 **inspection requirements and allow the exempt homeowner to proceed as if the exempt**  
42 **homeowner had passed the inspection.**

43           **6. No exempt homeowner shall be charged a fee to extend or renew an expiring**  
44 **building or construction permit, provided the permit is not allowed to expire prior to**  
45 **renewal. No limit shall be placed on the number of extensions or renewals of permits**  
46 **issued to exempt homeowners unless the work being performed is visible from**  
47 **neighboring properties or adjacent streets. Nothing in this subsection shall be construed**  
48 **to prohibit a political subdivision from requiring job sites with uncompleted work to be**  
49 **maintained in a state that does not pose an imminent threat to public health or safety.**

50           7. No exempt homeowner shall be assessed a fine or fee for work done without a  
51 permit in an amount greater than double the charge that would have been assessed if the  
52 permit had been issued at the time the unpermitted work was discovered.

53           8. No exempt homeowner shall be required to destroy, remove, or substantially  
54 alter any structure or part of a structure upon which work was previously done without  
55 permits unless the political subdivision having jurisdiction can demonstrate through  
56 photographic or similar objective evidence that the work performed did not meet  
57 applicable building codes or safety standards in place at the time the work was  
58 performed.

59           9. (1) No political subdivision shall issue a stop-work order, citation, penalty, or  
60 requirement for remediation for any ordinance or building code violation discovered  
61 during an inspection if the violation found is outside the scope of work that was  
62 requested to be inspected.

63           (2) Nothing in this subsection shall be interpreted to prohibit the production of a  
64 report detailing such violations found, provided the report is provided directly to the  
65 homeowner for informational purposes only and is not retained or otherwise utilized or  
66 distributed by the political subdivision or its agents.

67           10. Any exempt homeowner who applies for any building or construction permit  
68 and subsequently fails an inspection performed pursuant to such permit shall be  
69 informed in writing as to the reasons the inspection was deemed a failure and the actions  
70 required to be taken to pass a follow-up inspection.

71           11. No exempt homeowner shall be assessed a charge to reinspect previously  
72 inspected work for an amount that exceeds the cost of the initial permit or inspection  
73 unless a period of over ninety days has elapsed since the original inspection.

74           12. If the state or any of its political subdivisions enacts a statute, ordinance, or  
75 administrative rule that incorporates by reference any third-party standard or code  
76 otherwise subject to copyright protection, the state or political subdivision responsible  
77 for the statute, ordinance, or administrative rule shall provide, upon request and free of  
78 charge in a digital or physical format, the third-party standard or code incorporated by  
79 reference. Access to a physical format in a temporary or time-limited manner is  
80 sufficient to meet the requirements of this subsection, provided that a physical copy may  
81 remain in the possession of the requester until the completion of any currently permitted  
82 work. The state or political subdivision shall pay all costs associated with providing the  
83 third-party standard or code, except that the state or political subdivision may  
84 alternatively declare by executive or administrative act that the provisions of the  
85 standard or code incorporated by reference shall be repealed and not enforced until  
86 such repeal is achieved.

87       **13. Notwithstanding any other provision of law to the contrary, no agent of a**  
88 **political subdivision shall have the authority to enter into a private residence for the**  
89 **purpose of performing a safety inspection or investigation into municipal or code**  
90 **violations without first securing permission from the property owner or the owner's**  
91 **designee or a warrant from a court of competent jurisdiction.**

92       **14. Nothing in this section shall be construed to require any political subdivision**  
93 **to enact any building codes or standards where none currently exist.**

436.345. 1. Notwithstanding any other provision of law to the contrary, no political  
2 subdivision shall require a property owner to have a home inspection conducted of a  
3 residential property prior to the sale of the property.

4       **2. This [provision] section shall not apply to any inspection requirement of new**  
5 **construction or occupancy permits.**

442.404. 1. As used in this section, the following terms shall mean:

2       (1) "Homeowners' association", a nonprofit corporation or unincorporated association  
3 of homeowners created under a declaration to own and operate portions of a planned  
4 community or other residential subdivision that has the power under the declaration to assess  
5 association members to pay the costs and expenses incurred in the performance of the  
6 association's obligations under the declaration or tenants-in-common with respect to the  
7 ownership of common ground or amenities of a planned community or other residential  
8 subdivision. This term shall not include a condominium unit owners' association as defined  
9 and provided for in subdivision (3) of section 448.1-103 or a residential cooperative;

10       (2) "Political signs", any fixed, ground-mounted display in support of or in opposition  
11 to a person seeking elected office or a ballot measure excluding any materials that may be  
12 attached;

13       (3) "Solar panel or solar collector", a device used to collect and convert solar energy  
14 into electricity or thermal energy[;] including, but not limited to, photovoltaic cells or panels,  
15 or solar thermal systems.

16       2. (1) No deed restrictions, covenants, or similar binding agreements running with  
17 the land shall prohibit or have the effect of prohibiting the display of political signs.

18       (2) A homeowners' association has the authority to adopt reasonable rules, subject to  
19 any applicable statutes or ordinances, regarding the time, size, place, number, and manner of  
20 display of political signs.

21       (3) (a) A homeowners' association may remove a political sign without liability if  
22 such sign:

23       a. Is placed within the common ground[;];

24       b. Threatens the public health or safety[;];

25       c. Violates an applicable statute or ordinance[;];

26           **d.** Is accompanied by sound or music~~[;]~~; or

27           **e.** If any other materials are attached to the political sign.

28           **(b)** Subject to ~~[the foregoing]~~ **paragraph (a) of this subdivision**, a homeowners'  
29 association shall not remove a political sign from the property of a homeowner or impose any  
30 fine or penalty upon the homeowner unless it has given such homeowner three days after  
31 providing written notice to the homeowner, which notice shall specifically identify the rule  
32 and the nature of the violation.

33           3. (1) No deed restrictions, covenants, or similar binding agreements running with  
34 the land shall limit or prohibit, or have the effect of limiting or prohibiting, the installation of  
35 solar panels or solar collectors on the rooftop of any property or structure.

36           (2) A homeowners' association may adopt reasonable rules, subject to any applicable  
37 statutes or ordinances, regarding the placement of solar panels or solar collectors to the extent  
38 that those rules do not:

39           **(a)** Prevent the installation of the device~~[;]~~;

40           **(b)** Impair the functioning of the device~~[;]~~;

41           **(c)** Restrict the use of the device~~[;]~~; or

42           **(d)** Adversely affect the cost or efficiency of the device.

43           (3) The provisions of this subsection shall apply only with regard to rooftops that are  
44 owned, controlled, and maintained by the owner of the individual property or structure.

45           4. (1) No deed restrictions, covenants, or similar binding agreements running with  
46 the land shall prohibit or have the effect of prohibiting the display of sale signs on the  
47 property of a homeowner or property owner including, but not limited to, any yard on the  
48 property, or nearby street corners.

49           (2) A homeowners' association has the authority to adopt reasonable rules, subject to  
50 any applicable statutes or ordinances, regarding the time, size, place, number, and manner of  
51 display of sale signs.

52           (3) **(a)** A homeowners' association may remove a sale sign without liability if such  
53 sign:

54           **a.** Is placed within the common ground~~[;]~~;

55           **b.** Threatens the public health or safety~~[;]~~;

56           **c.** Violates an applicable statute or ordinance~~[;]~~;

57           **d.** Is accompanied by sound or music~~[;]~~; or

58           **e.** If any other materials are attached to the sale sign.

59           **(b)** Subject to ~~[the foregoing]~~ **paragraph (a) of this subdivision**, a homeowners'  
60 association shall not remove a sale sign from the property of a homeowner or property owner  
61 or impose any fine or penalty upon the homeowner or property owner unless it has given such  
62 homeowner or property owner three business days after the homeowner or property owner

63 receives written notice from the homeowners' association, which notice shall specifically  
64 identify the rule and the nature of the alleged violation.

65         5. (1) No deed restrictions, covenants, or similar binding agreements running with  
66 the land shall prohibit or have the effect of prohibiting ownership or pasturing of up to six  
67 chickens on a lot that is two-tenths of an acre or larger, including prohibitions against a single  
68 chicken coop designed to accommodate up to six chickens.

69         (2) A homeowners' association may adopt reasonable rules, subject to applicable  
70 statutes or ordinances, regarding ownership or pasturing of chickens, including a prohibition  
71 or restriction on ownership or pasturing of roosters.

534.602. 1. For purposes of this section, the following terms mean:

2         (1) "Petitioner", the property owner, or an authorized agent of a property owner, of  
3 property containing a residential dwelling who has filed a verified petition under the  
4 provisions of this section;

5         (2) "Respondent", the person or persons unlawfully occupying property containing a  
6 residential dwelling, against whom a verified petition has been filed;

7         (3) "Unlawful occupant" or "unlawful occupants", any person or persons who detain,  
8 occupy, or trespass on property containing a residential dwelling without the permission of  
9 the property owner, who otherwise have no legal right to occupy the property under state law,  
10 and who are not afforded any protections provided to a tenant under state law.

11         2. Notwithstanding any provision of this chapter to the contrary, a property owner or  
12 ~~[his or her]~~ **such owner's** authorized agent may seek relief for the removal of a person or  
13 persons unlawfully occupying property containing a residential dwelling under this section by  
14 filing a verified petition in the county or city not within a county where the property is  
15 located.

16         3. Except as provided in subsection 6 of this section, clerks of the court under the  
17 supervision of a circuit clerk shall explain to the property owner or ~~[his or her]~~ **such owner's**  
18 authorized agent not represented by counsel the procedures for filing all forms and pleadings  
19 necessary for the presentation of ~~[his or her]~~ **such owner's** petition to the court. Notice of the  
20 fact that clerks will provide such assistance shall be conspicuously posted in the clerks'  
21 offices. The location of the office where a petition can be filed shall be conspicuously posted  
22 in the court building. The performance of duties prescribed in this section shall not constitute  
23 the practice of law as defined in section 484.010. All duties of the clerk prescribed in this  
24 section shall be performed without cost to the litigants. The supreme court may promulgate  
25 rules as necessary to govern conduct of court clerks under this section and shall provide forms  
26 for petitions and written instructions on filling out all forms and pleadings necessary for the  
27 presentation of the petition to the court.

28           4. Filing fees and court costs under this section shall be the same as filing fees and  
29 court costs required when filing a claim in associate circuit court.

30           5. (1) Upon the filing of a verified petition under this section, and for good cause  
31 shown in the verified petition, the court shall immediately issue an ex parte order to remove  
32 the respondent. The assertion of sufficient evidence that the person or persons are unlawfully  
33 occupying property containing a residential dwelling shall constitute good cause for purposes  
34 of this section. The verified petition shall set forth the following:

35           (a) The petitioner is the property owner or authorized agent of the property owner;

36           (b) The property that is being occupied includes a residential dwelling;

37           (c) An unlawful occupant or unlawful occupants have entered and remain or continue  
38 to reside on the property owner's property;

39           (d) The real property was not open to members of the public at the time the unlawful  
40 occupant or unlawful occupants entered;

41           (e) The unlawful occupant or unlawful occupants are occupying the property without  
42 the permission of the property owner and are not guests of the property owner nor otherwise  
43 authorized to make use of the property;

44           (f) The property owner has directed the unlawful occupant or unlawful occupants to  
45 leave the property and the unlawful occupant or unlawful occupants have failed or refused to  
46 vacate the premises;

47           (g) The property has not been leased to any person for three consecutive months, and  
48 the unlawful occupant or unlawful occupants are not current or former tenants of the property  
49 pursuant to any agreement with the property owner;

50           (h) The unlawful occupant or unlawful occupants are not immediate family members  
51 of the property owner; and

52           (i) There is no pending litigation related to the real property between the property  
53 owner and any known unlawful occupant or unlawful occupants.

54           (2) An ex parte order to have the unlawful occupant or unlawful occupants removed  
55 from property containing a residential dwelling entered by the court shall take effect when  
56 entered and shall remain in effect until there is valid service of process and a hearing is held  
57 on the motion. Such hearing shall be held within forty-eight hours of filing the verified  
58 petition unless good cause is shown for a delay. The court shall deny the ex parte order and  
59 dismiss the petition if the petitioner is not authorized to seek relief or does not show good  
60 cause.

61           (3) Failure to serve an ex parte order on the respondent shall not affect the validity or  
62 enforceability of such order.

63           6. Any ex parte order granted under this section shall be to protect the petitioner from  
64 trespass by an unlawful occupant or unlawful occupants and may include such terms as the



65 court reasonably deems necessary to ensure the petitioner's safety including, but not limited  
66 to:

67 (1) Restraining the respondent from committing or threatening to commit any act of  
68 violence, molestation, stalking, assault, or disturbing the peace of the petitioner or the  
69 petitioner's property, including violence against a pet;

70 (2) Restraining the respondent from entering the petitioner's premises or dwelling unit  
71 or coming within a certain proximity of the petitioner's premises or dwelling unit; and

72 (3) Restraining the respondent from communicating with the petitioner in any manner  
73 or through any medium.

74 7. When the court has, after a hearing on the petition, issued an order for relief to  
75 permanently exclude an unlawful occupant or unlawful occupants from the petitioner's  
76 property, ~~[it]~~ **the court** may additionally:

77 (1) Permanently restrain the respondent from committing or threatening to commit  
78 any act of violence, molestation, stalking, assault, or disturbing the peace of the petitioner or  
79 the petitioner's property, including violence against a pet;

80 (2) Permanently restrain the respondent from entering the petitioner's premises or  
81 dwelling unit or coming within a certain proximity of the petitioner's premises or dwelling  
82 unit;

83 (3) Permanently restrain the respondent from communicating with the petitioner in  
84 any manner or through any medium;

85 (4) Permanently expel the respondent from occupying the petitioner's premises or  
86 dwelling unit;

87 (5) Permanently expel the respondent's personal property from the petitioner's  
88 premises or dwelling unit;

89 (6) Order the respondent to pay all costs of repair to the petitioner's premises or  
90 dwelling unit relating to damages caused by the respondent;

91 (7) Order the respondent to pay all costs associated with service of any ex parte order  
92 authorized against the respondent; or

93 (8) Order the respondent to pay court costs.

94 8. A verified petition seeking an ex parte order under this section shall contain  
95 allegations relating to those orders and shall pray for the orders desired.

96 9. Once the court grants an order under this section, the sheriff of the county or city  
97 not within a county in which the property is located shall enforce such order by removing the  
98 respondent from the property.

99 10. If appropriate, the sheriff may arrest any person found in the dwelling for  
100 trespass, outstanding warrants, or any other legal cause.

11. The sheriff is entitled to the same fee for the service of the ex parte order granted under this section as if the sheriff were serving a writ of possession under section 57.280. After the sheriff serves the order, the property owner or authorized agent may request that the sheriff stand by to keep the peace while the property owner or agent of the property owner changes the locks and removes the personal property of the unlawful occupants from the premises to or near the property line. When such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting the sheriff to stand by and keep the peace is responsible for paying the reasonable hourly rate set by the sheriff. The sheriff shall not be liable to the unlawful occupant or occupants or to any other party for the loss, destruction, or damage of property. The property owner or ~~his or her~~ **such owner's** authorized agent shall not be liable to an unlawful occupant or any other party for the loss, destruction, or damage to the personal property unless the removal was wrongful.

12. A person may bring a civil cause of action if the person was removed from the property under this section without just cause. Such person may seek restored possession to the real property, actual damages to personal property when personal property was removed, statutory damages in the amount of one thousand dollars, and reimbursement of court costs. Any damages authorized under this subsection shall be offset by any damages to the real property inflicted by the person who was removed from the real property without just cause. Such damages to real property shall be proven by the property owner. Awards of actual damages shall not exceed the value of the damaged personal property.

13. The provisions of this section do not limit the rights of a property owner or limit the authority of a law enforcement officer to arrest an unlawful occupant for trespassing, vandalism, theft, or other crimes.

14. All proceedings under this section are in addition to any other available civil or criminal remedies, unless otherwise specifically provided in this section.

15. (1) The court shall retain jurisdiction over the ex parte order or full order of protection issued under this section for its entire duration. The court may schedule compliance review hearings to monitor the respondent's compliance with the order.

(2) The terms of the ex parte order or full order of protection issued under this section are enforceable by all remedies available at law for the enforcement of a judgment, and the court may punish a respondent who willfully violates the ex parte order to the same extent as provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

534.604. 1. When a law enforcement officer has probable cause to believe that a party, against whom an ex parte order under section 534.602 has been entered and who has notice of such order entered, has committed an act in violation of such order, the law

4 enforcement officer shall arrest the offending party-respondent regardless of whether the  
5 violation occurred in the presence of the arresting law enforcement officer.

6       2. In an arrest in which a law enforcement officer acted in good faith reliance on this  
7 section, the arresting and assisting law enforcement officers and their employing entities and  
8 superiors shall be immune from liability in any civil action alleging false arrest, false  
9 imprisonment, or malicious prosecution.

10       3. **(1)** A violation of the terms and conditions of an ex parte order under section  
11 534.602 shall be a class A misdemeanor.

12       **(2)** For the purposes of this subsection, in addition to the notice provided by actual  
13 service of the order, a party is deemed to have notice of an ex parte order under section  
14 534.602 if:

15       ~~[(1)]~~ **(a)** The law enforcement officer responding to a call of a violation of an ex parte  
16 order under section 534.602 presented a copy of the ex parte order to the respondent; or

17       ~~[(2)]~~ **(b)** Notice is given by actual communication to the respondent in a manner  
18 reasonably likely to advise the respondent.

19       4. Nothing in this section shall be interpreted as creating a civil cause of action for  
20 damages to enforce the provisions set forth in this section.

569.200. 1. A person commits the offense of criminal mischief if ~~[he or she]~~ **such**  
2 **person** unlawfully detains, occupies, or trespasses upon a residential dwelling.

3       2. The offense of criminal mischief is a class A misdemeanor.

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