

By Senator Campbell

33-251-00

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A bill to be entitled
An act relating to local governments; amending
s. 893.138, F.S.; authorizing local governments
to take local administrative action to declare
certain buildings and premises to be a public
nuisance when the building or premises is used
to deal in stolen property; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 893.138, Florida Statutes, is
amended to read:

893.138 Local administrative action to abate
drug-related, ~~or~~ prostitution-related, or
stolen-property-related public nuisances and criminal street
gang activity.--

(1) It is the intent of this section to promote,
protect, and improve the health, safety, and welfare of the
citizens of the counties and municipalities of this state by
authorizing the creation of administrative boards with
authority to impose administrative fines and other noncriminal
penalties in order to provide an equitable, expeditious,
effective, and inexpensive method of enforcing ordinances in
counties and municipalities under circumstances when a pending
or repeated violation continues to exist.

(2) Any place or premises that has been used ~~on more
than two occasions, within a 6-month period:~~

(a) On more than two occasions within a 6-month
period, as the site of a violation of s. 796.07;

1 (b) On more than two occasions within a 6-month
2 period, as the site of the unlawful sale, delivery,
3 manufacture, or cultivation of any controlled substance;

4 (c) On one occasion as the site of the unlawful
5 possession of a controlled substance, where such possession
6 constitutes a felony and that has been previously used on more
7 than one occasion as the site of the unlawful sale, delivery,
8 manufacture, or cultivation of any controlled substance; ~~or~~

9 (d) ~~Any place or building used~~ By a criminal street
10 gang for the purpose of conducting a pattern of criminal
11 street gang activity as defined by s. 874.03; or

12 (e) On more than two occasions within a 6-month
13 period, as the site of a violation of s. 812.019 relating to
14 dealing in stolen property

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16 may be declared to be a public nuisance, and such nuisance may
17 be abated pursuant to the procedures provided in this section.

18 (3) Any county or municipality may, by ordinance,
19 create an administrative board to hear complaints regarding
20 the nuisances described in subsection (2). Any employee,
21 officer, or resident of the county or municipality may bring a
22 complaint before the board after giving not less than 3 days'
23 written notice of such complaint to the owner of the place or
24 premises at his or her last known address. After a hearing in
25 which the board may consider any evidence, including evidence
26 of the general reputation of the place or premises, and at
27 which the owner of the premises shall have an opportunity to
28 present evidence in his or her defense, the board may declare
29 the place or premises to be a public nuisance as described in
30 subsection (2).

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1 (4) If the board declares a place or premises to be a
2 public nuisance, it may enter an order requiring the owner of
3 such place or premises to adopt such procedure as may be
4 appropriate under the circumstances to abate any such nuisance
5 or it may enter an order immediately prohibiting:

6 (a) The maintaining of the nuisance;

7 (b) The operating or maintaining of the place or
8 premises, including the closure of the place or premises or
9 any part thereof; or

10 (c) The conduct, operation, or maintenance of any
11 business or activity on the premises which is conducive to
12 such nuisance.

13 (5) An order entered under subsection (4) shall expire
14 after 1 year or at such earlier time as is stated in the
15 order.

16 (6) An order entered under subsection (4) may be
17 enforced pursuant to the procedures contained in s. 120.69.
18 This subsection does not subject a municipality that creates a
19 board under this section, or the board so created, to any
20 other provision of chapter 120.

21 (7) The board may bring a complaint under s. 60.05
22 seeking temporary and permanent injunctive relief against any
23 nuisance described in subsection (2).

24 (8) This section does not restrict the right of any
25 person to proceed under s. 60.05 against any public nuisance.

26 (9) As used in this section, the term "controlled
27 substance" includes any substance sold in lieu of a controlled
28 substance in violation of s. 817.563 or any imitation
29 controlled substance defined in s. 817.564.

30 (10) The provisions of this section may be
31 supplemented by a county or municipal ordinance. The

1 ordinance may include, but is not limited to, provisions that
2 establish additional penalties for public nuisances, including
3 fines not to exceed \$250 per day; provide for the payment of
4 reasonable costs, including reasonable attorney fees
5 associated with investigations of and hearings on public
6 nuisances; provide for continuing jurisdiction for a period of
7 1 year over any place or premises that has been or is declared
8 to be a public nuisance; establish penalties, including fines
9 not to exceed \$500 per day for recurring public nuisances;
10 provide for the recording of orders on public nuisances so
11 that notice must be given to subsequent purchasers, successors
12 in interest, or assigns of the real property that is the
13 subject of the order; provide that recorded orders on public
14 nuisances may become liens against the real property that is
15 the subject of the order; and provide for the foreclosure of
16 property subject to a lien and the recovery of all costs,
17 including reasonable attorney fees, associated with the
18 recording of orders and foreclosure. No lien created pursuant
19 to the provisions of this section may be foreclosed on real
20 property which is a homestead under s. 4, Art. X of the State
21 Constitution. The total fines imposed pursuant to the
22 authority of this section shall not exceed \$7,500. Nothing
23 contained within this section prohibits a county or
24 municipality from proceeding against a public nuisance by any
25 other means.

26 Section 2. This act shall take effect July 1, 2000.
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SENATE SUMMARY

Includes places or premises used on more than two occasions within a 6-month period for dealing in stolen goods within a list of places and premises which may be declared a public nuisance for which local administrative action may be taken.