

Amendment No. 01 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Sanderson offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

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.

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

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

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

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

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

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

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

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

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1 present evidence in his or her defense, the board may declare
2 the place or premises to be a public nuisance as described in
3 subsection (2).

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

9 (a) The maintaining of the nuisance;

10 (b) The operating or maintaining of the place or
11 premises, including the closure of the place or premises or
12 any part thereof; or

13 (c) The conduct, operation, or maintenance of any
14 business or activity on the premises which is conducive to
15 such nuisance.

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

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

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

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

29 (9) As used in this section, the term "controlled
30 substance" includes any substance sold in lieu of a controlled
31 substance in violation of s. 817.563 or any imitation

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1 controlled substance defined in s. 817.564.

2 (10) The provisions of this section may be
3 supplemented by a county or municipal ordinance. The
4 ordinance may include, but is not limited to, provisions that
5 establish additional penalties for public nuisances, including
6 fines not to exceed \$250 per day; provide for the payment of
7 reasonable costs, including reasonable attorney fees
8 associated with investigations of and hearings on public
9 nuisances; provide for continuing jurisdiction for a period of
10 1 year over any place or premises that has been or is declared
11 to be a public nuisance; establish penalties, including fines
12 not to exceed \$500 per day for recurring public nuisances;
13 provide for the recording of orders on public nuisances so
14 that notice must be given to subsequent purchasers, successors
15 in interest, or assigns of the real property that is the
16 subject of the order; provide that recorded orders on public
17 nuisances may become liens against the real property that is
18 the subject of the order; and provide for the foreclosure of
19 property subject to a lien and the recovery of all costs,
20 including reasonable attorney fees, associated with the
21 recording of orders and foreclosure. No lien created pursuant
22 to the provisions of this section may be foreclosed on real
23 property which is a homestead under s. 4, Art. X of the State
24 Constitution. Where a local government seeks to bring an
25 administrative action, based on a stolen property nuisance,
26 against a property owner operating an establishment where
27 multiple tenants, on one site, conduct their own retail
28 business, the property owner shall not be subject to a lien
29 against his property or the prohibition of operation provision
30 if the property owner evicts the business declared to be a
31 nuisance within 90 days after notification by registered mail

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1 to the property owner of a second stolen property conviction
 2 of the tenant. The total fines imposed pursuant to the
 3 authority of this section shall not exceed \$7,500. Nothing
 4 contained within this section prohibits a county or
 5 municipality from proceeding against a public nuisance by any
 6 other means.

7 Section 2. This act shall take effect July 1, 2000.

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10 ===== T I T L E A M E N D M E N T =====

11 And the title is amended as follows:

12 On page 1, lines 2-9
 13 remove from the title of the bill: all of said lines
 14
 15 and insert in lieu thereof:

16 An act relating to local governments; amending
 17 s. 893.138, F.S.; authorizing local governments
 18 to take local administrative action to declare
 19 certain buildings and premises to be a public
 20 nuisance when the building or premises is used
 21 to deal in stolen property; providing for
 22 notice of certain property owners with multiple
 23 tenants; providing an effective date.

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