

Amendment No. \_\_\_\_ (for drafter's use only)

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

**Substitute Amendment for Amendment (274195) (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

Amendment No. \_\_\_\_ (for drafter's use only)

1 or repeated violation continues to exist.

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

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

6 (b) On more than two occasions within a 6-month  
7 period,as the site of the unlawful sale, delivery,

8 manufacture, or cultivation of any controlled substance;

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

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

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

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

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

Amendment No. \_\_\_\_ (for drafter's use only)

1 which the owner of the premises shall have an opportunity to  
2 present evidence in his or her defense, the board may declare  
3 the place or premises to be a public nuisance as described in  
4 subsection (2).

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

10 (a) The maintaining of the nuisance;

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

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

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

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

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

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

30 (9) As used in this section, the term "controlled  
31 substance" includes any substance sold in lieu of a controlled

Amendment No. \_\_\_\_ (for drafter's use only)

1 substance in violation of s. 817.563 or any imitation  
2 controlled substance defined in s. 817.564.

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

Amendment No. \_\_\_\_ (for drafter's use only)

1 nuisance within 90 days after notification by registered mail  
 2 to the property owner of a second stolen property conviction  
 3 of the tenant. The total fines imposed pursuant to the  
 4 authority of this section shall not exceed \$7,500. Nothing  
 5 contained within this section prohibits a county or  
 6 municipality from proceeding against a public nuisance by any  
 7 other means.

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

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

12 And the title is amended as follows:

13 On page 1, lines 2-9

14 remove from the title of the bill: all of said lines

15

16 and insert in lieu thereof:

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

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