

1                   A bill to be entitled  
2           An act relating to local governments; amending  
3           s. 893.138, F.S.; authorizing local governments  
4           to take local administrative action to declare  
5           certain buildings and premises to be a public  
6           nuisance when the building or premises is used  
7           to deal in stolen property; providing for  
8           notice of certain property owners with multiple  
9           tenants; providing a fine; providing an  
10          effective date.

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

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

16           893.138 Local administrative action to abate  
17   drug-related,or prostitution-related, or  
18   stolen-property-related public nuisances and criminal street  
19   gang activity.--

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

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

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- 1           (a) On more than two occasions within a 6-month  
2 period,as the site of a violation of s. 796.07;  
3           (b) On more than two occasions within a 6-month  
4 period,as the site of the unlawful sale, delivery,  
5 manufacture, or cultivation of any controlled substance;  
6           (c) On one occasion as the site of the unlawful  
7 possession of a controlled substance, where such possession  
8 constitutes a felony and that has been previously used on more  
9 than one occasion as the site of the unlawful sale, delivery,  
10 manufacture, or cultivation of any controlled substance; ~~or~~  
11           (d) ~~Any place or building used~~ By a criminal street  
12 gang for the purpose of conducting a pattern of criminal  
13 street gang activity as defined by s. 874.03; or  
14           (e) On more than two occasions within a 6-month  
15 period, as the site of a violation of s. 812.019 relating to  
16 dealing in stolen property  
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18 may be declared to be a public nuisance, and such nuisance may  
19 be abated pursuant to the procedures provided in this section.  
20           (3) Any county or municipality may, by ordinance,  
21 create an administrative board to hear complaints regarding  
22 the nuisances described in subsection (2). Any employee,  
23 officer, or resident of the county or municipality may bring a  
24 complaint before the board after giving not less than 3 days'  
25 written notice of such complaint to the owner of the place or  
26 premises at his or her last known address. After a hearing in  
27 which the board may consider any evidence, including evidence  
28 of the general reputation of the place or premises, and at  
29 which the owner of the premises shall have an opportunity to  
30 present evidence in his or her defense, the board may declare  
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1 the place or premises to be a public nuisance as described in  
2 subsection (2).

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

8 (a) The maintaining of the nuisance;

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

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

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

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

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

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

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

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

1 of the tenant. The total fines imposed pursuant to the  
2 authority of this section shall not exceed \$15,000~~\$7,500~~.  
3 Nothing contained within this section prohibits a county or  
4 municipality from proceeding against a public nuisance by any  
5 other means.

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