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A bill to be entitled
 An act relating to nuisance abatement; amending s.
 893.138, F.S.; revising language with respect to
 legislative intent concerning local administrative action
 to abate drug-related, prostitution-related, stolen-
 property-related, or street-gang-related public nuisances;
 providing for a mandatory, rather than optional,
 declaration of a place or premises as a public nuisance
 under certain circumstances; providing for the closure of
 a place or premises under certain circumstances; 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,
 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, including,
but not limited to, the power to close property for up to 1
year, in order to abate drug-related, prostitution-related,
stolen-property-related, or street-gang-related public nuisances
on the property ~~provide an equitable, expeditious, effective,~~
~~and inexpensive method of enforcing ordinances in counties and~~



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30 ~~municipalities~~ under circumstances when a pending or repeated
31 violation continues to exist.

32 (2) Any place or premises that has been used:

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

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

38 (c) On one occasion as the site of the unlawful possession
39 of a controlled substance, where such possession constitutes a
40 felony and that has been previously used on more than one
41 occasion as the site of the unlawful sale, delivery,
42 manufacture, or cultivation of any controlled substance;

43 (d) By a criminal street gang for the purpose of
44 conducting a pattern of criminal street gang activity as defined
45 by s. 874.03; or

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

49
50 is ~~may be~~ declared to be a public nuisance, and such nuisance
51 may be abated pursuant to the procedures provided in this
52 section.

53 (3) Any county or municipality may, by ordinance, create
54 an administrative board to hear complaints regarding the
55 nuisances described in subsection (2). Any employee, officer, or
56 resident of the county or municipality may bring a complaint
57 before the board after giving not less than 3 days' written
58 notice of such complaint to the owner of the place or premises
59 at his or her last known address. After a hearing in which the



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60 board may consider any evidence, including evidence of the
61 general reputation of the place or premises, and at which the
62 owner of the premises shall have an opportunity to present
63 evidence in his or her defense, the board may declare the place
64 or premises to be a public nuisance as described in subsection
65 (2).

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

71 (a) The maintaining of the nuisance;

72 (b) The operating or maintaining of the place or premises,
73 including the closure of the place or premises or any part
74 thereof; or

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

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

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

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

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



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89 (9) As used in this section, the term "controlled
90 substance" includes any substance sold in lieu of a controlled
91 substance in violation of s. 817.563 or any imitation controlled
92 substance defined in s. 817.564.

93 (10) The provisions of this section may be supplemented by
94 a county or municipal ordinance. The ordinance may include, but
95 is not limited to, provisions that establish additional
96 penalties for public nuisances, including fines not to exceed
97 \$250 per day; provide for the payment of reasonable costs,
98 including reasonable attorney fees associated with
99 investigations of and hearings on public nuisances; provide for
100 continuing jurisdiction for a period of 1 year over any place or
101 premises that has been or is declared to be a public nuisance;
102 establish penalties, including fines not to exceed \$500 per day
103 for recurring public nuisances; provide for the recording of
104 orders on public nuisances so that notice must be given to
105 subsequent purchasers, successors in interest, or assigns of the
106 real property that is the subject of the order; provide that
107 recorded orders on public nuisances may become liens against the
108 real property that is the subject of the order; and provide for
109 the foreclosure of property subject to a lien and the recovery
110 of all costs, including reasonable attorney fees, associated
111 with the recording of orders and foreclosure. No lien created
112 pursuant to the provisions of this section may be foreclosed on
113 real property which is a homestead under s. 4, Art. X of the
114 State Constitution. Where a local government seeks to bring an
115 administrative action, based on a stolen property nuisance,
116 against a property owner operating an establishment where
117 multiple tenants, on one site, conduct their own retail
118 business, the property owner shall not be subject to a lien



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119 against his or her property or the prohibition of operation
120 provision if the property owner evicts the business declared to
121 be a nuisance within 90 days after notification by registered
122 mail to the property owner of a second stolen property
123 conviction of the tenant. The total fines imposed pursuant to
124 the authority of this section shall not exceed \$15,000. Nothing
125 contained within this section prohibits a county or municipality
126 from proceeding against a public nuisance by any other means.

127 (11) A place or premises may be closed pursuant to
128 paragraph (4)(b) when occupancy of the property materially
129 contributes to the public nuisance. If the owner of the place or
130 premises does not reside upon the property, then the owner shall
131 have a reasonable time in which to abate the public nuisance
132 before the property is closed. If the nonresident owner abates
133 the public nuisance within a reasonable time or commences and
134 diligently pursues legal proceedings to abate such nuisance, the
135 property shall not be closed. The legal proceedings shall be
136 initiated on or before the 10th day after the hearing pursuant
137 to subsection (3). A nonresident owner's opportunity to abate
138 the public nuisance or commence proceedings to abate such
139 nuisance may be before or after the hearing pursuant to
140 subsection (3). Closure of property which constitutes an
141 unabated public nuisance shall not constitute a taking.

142 Section 2. This act shall take effect upon becoming a law.