

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Criminal Justice
2 Subcommittee
3 Representative Frishe offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 Section 1. Subsections (2), (4), (6), (7), (8), and (11) of
8 section 893.138, Florida Statutes, are amended to read:

9 893.138 Local administrative action to abate drug-related,
10 prostitution-related, or stolen-property-related public
11 nuisances and criminal gang activity.-

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

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

15 (b) On more than two occasions within a 6-month period, as
16 the site of the unlawful sale, delivery, manufacture, or
17 cultivation of a ~~any~~ controlled substance, or as the site of the
18 storage of a controlled substance with intent to sell or deliver
19 the controlled substance off the premises;

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20 (c) On one occasion as the site of the unlawful possession
21 of a controlled substance, where such possession constitutes a
22 felony, and that has been previously used on more than one
23 occasion as the site of the unlawful sale, delivery,
24 manufacture, or cultivation of a ~~any~~ controlled substance;

25 (d) By a criminal gang for the purpose of conducting
26 criminal gang-related ~~gang~~ activity as defined in ~~by~~ s. 874.03;
27 or

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

31
32 may be declared to be a public nuisance, and such nuisance may
33 be abated pursuant to ~~the procedures provided in~~ this section.

34 (4) Any county or municipality may, by ordinance, create an
35 administrative board to hear complaints regarding the nuisances
36 described in subsections (2) and (3). Any employee, officer, or
37 resident of the county or municipality may bring a complaint
38 before the board after giving not less than 3 days' written
39 notice of such complaint to the owner of the place or premises
40 at his or her last known address. After a hearing in which the
41 board may consider any evidence, including evidence of the
42 general reputation of the place or premises, and at which the
43 owner of the premises shall have an opportunity to present
44 evidence in his or her defense, the board may declare the place
45 or premises to be a public nuisance as described in subsections
46 (2) and (3).

47 (6) An order entered under subsection (5) ~~(4)~~ expires

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48 ~~shall expire~~ after 1 year or at such earlier time as is stated
49 in the order unless the owner of a place or premises that has
50 been declared to be a public nuisance has violated the order
51 during the term of the order. Upon receiving a complaint of
52 recurring public nuisance activity or noncompliance and after
53 providing at least 3 days' written notice to the owner of such
54 place or premises, the board shall conduct a hearing to
55 determine whether the owner violated the administrative order
56 entered under subsection (5). If the board finds that the owner
57 of such place or premises violated the order, the board may
58 extend the term of the order by up to 1 additional year and may
59 impose an additional penalty to the extent authorized by this
60 section and by a supplemental county or municipal ordinance.

61 (7) An order entered under subsection (5) ~~(4)~~ may be
62 enforced pursuant to the procedures contained in s. 120.69. This
63 subsection does not subject a municipality that creates a board
64 under this section, or the board so created, to any other
65 provision of chapter 120.

66 (8) The board may bring a complaint under s. 60.05 seeking
67 temporary and permanent injunctive relief against any nuisance
68 described in subsections (2) and (3).

69 (11) ~~The provisions of~~ This section may be supplemented by
70 a county or municipal ordinance. The ordinance may include, but
71 need is not be limited to, provisions that establish additional
72 penalties for public nuisances, including fines not to exceed
73 \$250 per day for each day that the public nuisance activities
74 described in subsections (2) and (3) have occurred, including
75 days outside the 6-month period in which the minimum number of

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76 public nuisance activities are shown to have occurred. The
77 ordinance may also provide for the payment of reasonable costs,
78 including reasonable attorney fees associated with
79 investigations of and hearings on public nuisances; provide for
80 continuing jurisdiction for a period of 1 year over any place or
81 premises that have ~~has~~ been or are ~~is~~ declared to be a public
82 nuisance, subject to an extension for up to 1 additional year as
83 provided in subsection (6); establish penalties, including fines
84 not to exceed \$500 per day for recurring public nuisances;
85 provide for the recording of orders on public nuisances so that
86 notice must be given to subsequent purchasers, successors in
87 interest, or assigns of the real property that is the subject of
88 the order; provide that recorded orders on public nuisances may
89 become liens against the real property that is the subject of
90 the order; and provide for the foreclosure of the property that
91 is subject to a lien and the recovery of all costs, including
92 reasonable attorney fees, associated with the recording of
93 orders and foreclosure. A ~~No~~ lien created pursuant to ~~the~~
94 ~~provisions of~~ this section may not be foreclosed on real
95 property that ~~which~~ is a homestead under s. 4, Art. X of the
96 State Constitution. When ~~Where~~ a local government seeks to bring
97 an administrative action, based on a stolen property nuisance,
98 against a property owner operating an establishment where
99 multiple tenants, on one site, conduct their own retail
100 business, the property owner is ~~shall~~ not ~~be~~ subject to a lien
101 against his or her property or the prohibition of operation
102 provision if the property owner evicts the business declared to
103 be a nuisance within 90 days after notification by registered

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104 mail to the property owner of a second stolen property
105 conviction of the tenant. The total fines imposed pursuant to
106 ~~the authority of this section may shall~~ not exceed \$15,000.
107 ~~Nothing contained within~~ This section does not prohibit
108 ~~prohibits~~ a county or municipality from proceeding against a
109 public nuisance by any other means.

110 Section 2. This act shall take effect July 1, 2012.

114 -----
115 **T I T L E A M E N D M E N T**

116 Remove the entire title and insert:

117 An act relating to local administrative action to abate public
118 nuisances and criminal gang activity; amending s. 893.138, F.S.;
119 authorizing a local administrative board to declare a place to
120 be a public nuisance if the place is used on more than two
121 occasions within a 6-month period as the site of the storage of
122 a controlled substance with intent to sell or deliver the
123 controlled substance; authorizing an administrative board to
124 hear complaints regarding any pain clinic declared to be a
125 public nuisance; providing that an order entered against a
126 person for a public nuisance expires after 1 year or at an
127 earlier time if so stated in the order unless the person has
128 violated the order during the term of the order; requiring that
129 the board conduct a hearing to determine whether the person
130 violated the administrative order; authorizing an administrative
131 board to seek temporary and permanent injunctive relief against

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132 any pain clinic declared to be a public nuisance; authorizing
133 the board to extend the term of the order by up to 1 additional
134 year and to impose a penalty if the board finds that the person
135 violated the order; authorizing a county or municipal ordinance
136 to include fines for days of public nuisance activities outside
137 the 6-month period in which the minimum number of activities are
138 shown to have occurred; authorizing a local ordinance to provide
139 for continuing jurisdiction over a place or premises that are
140 subject to an extension of the administrative order; providing
141 an effective date.