

HB 1443

2012

1 A bill to be entitled
2 An act relating to public nuisances; amending s.
3 893.138, F.S.; providing that two or more occasions
4 within a 6-month period, as the site of a violation of
5 s. 823.10, F.S., relating to places where controlled
6 substances are illegally kept, sold, or used, shall be
7 grounds to declare a place or premises to be a public
8 nuisance for purposes of local administrative action;
9 correcting a cross-reference; providing that a
10 violation of an order of a nuisance abatement board
11 may serve as the basis for extending the term of the
12 order for up to 1 year; providing an effective date.

13
14 WHEREAS, the Legislature recognizes that certain properties
15 where controlled substances are kept, sold, or used are
16 detrimental to the health, safety, and welfare of the residents
17 of the counties and municipalities of this state, and

18 WHEREAS, the Legislature desires to expand the scope of the
19 powers of local nuisance abatement boards to permit such boards
20 to declare such properties a public nuisance as provided in
21 section 893.138, Florida Statutes, and

22 WHEREAS, an order of a nuisance abatement board presently
23 expires after 1 year or at such earlier time as may be stated in
24 the order regardless of recurring nuisance activity or
25 noncompliance, and

26 WHEREAS, the Legislature finds that a violation of or
27 willful noncompliance with an order of a nuisance abatement

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28 | board should serve as the basis for extending the term of the
 29 | order by up to 1 additional year, NOW, THEREFORE,
 30 |

31 | Be It Enacted by the Legislature of the State of Florida:
 32 |

33 | Section 1. Subsections (2), (6), and (11) of section
 34 | 893.138, Florida Statutes, are amended to read:

35 | 893.138 Local administrative action to abate drug-related,
 36 | prostitution-related, or stolen-property-related public
 37 | nuisances and criminal gang activity.—

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

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

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

44 | (c) On one occasion as the site of the unlawful possession
 45 | of a controlled substance, where such possession constitutes a
 46 | felony and that has been previously used on more than one
 47 | occasion as the site of the unlawful sale, delivery,
 48 | manufacture, or cultivation of any controlled substance;

49 | (d) By a criminal gang for the purpose of conducting
 50 | criminal gang activity as defined by s. 874.03; ~~or~~

51 | (e) On more than two occasions within a 6-month period, as
 52 | the site of a violation of s. 812.019 relating to dealing in
 53 | stolen property; or

54 | (f) On more than two occasions within a 6-month period, as
 55 | the site of a violation of s. 823.10 relating to places where

56 controlled substances are illegally kept, sold, or used,
 57
 58 may be declared to be a public nuisance, and such nuisance may
 59 be abated pursuant to the procedures provided in this section.
 60 (6) An order entered under subsection (5) ~~(4)~~ shall expire
 61 after 1 year or at such earlier time as is stated in the order.
 62 The board, upon a finding of recurring public nuisance activity
 63 or noncompliance and after notice and hearing, may extend the
 64 term of the order for up to 1 year.
 65 (11) The provisions of this section may be supplemented by
 66 a county or municipal ordinance. The ordinance may include, but
 67 is not limited to, provisions that establish additional
 68 penalties for public nuisances, including fines not to exceed
 69 \$250 per day; provide for the payment of reasonable costs,
 70 including reasonable attorney fees associated with
 71 investigations of and hearings on public nuisances; provide for
 72 continuing jurisdiction for a period of 1 year over any place or
 73 premises that has been or is declared to be a public nuisance,
 74 subject to extension for up to 1 additional year as provided in
 75 subsection (6); establish penalties, including fines not to
 76 exceed \$500 per day for recurring public nuisances; provide for
 77 the recording of orders on public nuisances so that notice must
 78 be given to subsequent purchasers, successors in interest, or
 79 assigns of the real property that is the subject of the order;
 80 provide that recorded orders on public nuisances may become
 81 liens against the real property that is the subject of the
 82 order; and provide for the foreclosure of property subject to a
 83 lien and the recovery of all costs, including reasonable

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84 attorney fees, associated with the recording of orders and
85 foreclosure. A ~~No~~ lien created pursuant to ~~the provisions of~~
86 this section may not be foreclosed on real property that ~~which~~
87 is a homestead under s. 4, Art. X of the State Constitution.
88 Where a local government seeks to bring an administrative
89 action, based on a stolen property nuisance, against a property
90 owner operating an establishment where multiple tenants, on one
91 site, conduct their own retail business, the property owner is
92 ~~shall~~ ~~be~~ subject to a lien against his or her property or
93 the prohibition of operation provision if the property owner
94 evicts the business declared to be a nuisance within 90 days
95 after notification by registered mail to the property owner of a
96 second stolen property conviction of the tenant. The total fines
97 imposed under ~~pursuant to the authority of~~ this section may
98 ~~shall~~ not exceed \$15,000. ~~Nothing contained within~~ This section
99 does not prohibit ~~prohibits~~ a county or municipality from
100 proceeding against a public nuisance by any other means.

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