

By Senator Latvala

16-00705-12

20121580\_\_

1                   A bill to be entitled  
2           An act relating to local administrative action to  
3           abate public nuisances and criminal gang activity;  
4           amending s. 893.138, F.S.; authorizing a local  
5           administrative board to declare a place to be a public  
6           nuisance if the place is used on more than two  
7           occasions within a 6-month period as the site of the  
8           storage of a controlled substance with intent to sell  
9           or deliver the controlled substance; providing that an  
10          order entered against a person for a public nuisance  
11          expires after 1 year or at an earlier time if so  
12          stated in the order unless the person has violated the  
13          order during the term of the order; requiring that the  
14          board conduct a hearing to determine whether the  
15          person violated the administrative order; authorizing  
16          the board to extend the term of the order by up to 1  
17          additional year and to impose a penalty if the board  
18          finds that the person violated the order; authorizing  
19          a county or municipal ordinance to include fines for  
20          days of public nuisance activities outside the 6-month  
21          period in which the minimum number of activities are  
22          shown to have occurred; authorizing a local ordinance  
23          to provide for continuing jurisdiction over a place or  
24          premises that are subject to an extension of the  
25          administrative order; providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

28  
29          Section 1. Subsections (2), (6), and (11) of section

16-00705-12

20121580\_\_

30 893.138, Florida Statutes, are amended to read:

31 893.138 Local administrative action to abate drug-related,  
32 prostitution-related, or stolen-property-related public  
33 nuisances and criminal gang activity.-

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

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

37 (b) On more than two occasions within a 6-month period, as  
38 the site of the unlawful sale, delivery, manufacture, or  
39 cultivation of a any controlled substance, or as the site of the  
40 storage of a controlled substance with intent to sell or deliver  
41 the controlled substance off the premises;

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

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

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

53  
54 may be declared to be a public nuisance, and such nuisance may  
55 be abated pursuant to ~~the procedures provided in~~ this section.

56 (6) An order entered under subsection (4) expires ~~shall~~  
57 ~~expire~~ after 1 year or at such earlier time as is stated in the  
58 order unless the person has violated the order during the term

16-00705-12

20121580\_\_

59 of the order. After providing notice to the person whose  
60 activities have been declared to be a public nuisance, the board  
61 shall conduct a hearing to determine whether the person violated  
62 the administrative order entered under subsection (5). If the  
63 board finds that the person violated the order, the board may  
64 extend the term of the order by up to 1 additional year and may  
65 impose an additional penalty to the extent authorized by this  
66 section and by a supplemental county or municipal ordinance.

67 (11) ~~The provisions of~~ This section may be supplemented by  
68 a county or municipal ordinance. The ordinance may include, but  
69 need is not be limited to, provisions that establish additional  
70 penalties for public nuisances, including fines not to exceed  
71 \$250 per day for each day that the public nuisance activities  
72 described in subsection (2) have occurred, including days  
73 outside the 6-month period in which the minimum number of public  
74 nuisance activities are shown to have occurred. The ordinance  
75 may also, provide for the payment of reasonable costs, including  
76 reasonable attorney fees associated with investigations of and  
77 hearings on public nuisances; provide for continuing  
78 jurisdiction for a period of 1 year over any place or premises  
79 that have has been or are is declared to be a public nuisance,  
80 subject to an extension for up to 1 additional year as provided  
81 in subsection (6); establish penalties, including fines not to  
82 exceed \$500 per day for recurring public nuisances; provide for  
83 the recording of orders on public nuisances so that notice must  
84 be given to subsequent purchasers, successors in interest, or  
85 assigns of the real property that is the subject of the order;  
86 provide that recorded orders on public nuisances may become  
87 liens against the real property that is the subject of the

16-00705-12

20121580\_\_

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

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