

By the Committee on Community Affairs; and Senator Latvala

578-03698-12

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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; prohibiting a
10 county or municipality from declaring a place or
11 premises a public nuisance unless the county or
12 municipality gives prior notice to the owner of the
13 place or premises of its intent to declare the place
14 or premises a public nuisance and affords the owner an
15 opportunity to abate the nuisance; providing that an
16 order entered against a person for a public nuisance
17 expires after 1 year or at an earlier time if so
18 stated in the order unless the person has violated the
19 order during the term of the order; requiring that the
20 board conduct a hearing to determine whether the
21 person violated the administrative order; authorizing
22 the board to extend the term of the order by up to 1
23 additional year and to impose a penalty if the board
24 finds that the person violated the order; authorizing
25 a county or municipal ordinance to include fines for
26 days of public nuisance activities outside the 6-month
27 period in which the minimum number of activities are
28 shown to have occurred; authorizing a local ordinance
29 to provide for continuing jurisdiction over a place or

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30 premises that are subject to an extension of the
31 administrative order; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Subsections (2), (6), and (11) of section
36 893.138, Florida Statutes, are amended to read:

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

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

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

43 (b) On more than two occasions within a 6-month period, as
44 the site of the unlawful sale, delivery, manufacture, or
45 cultivation of a any controlled substance, or as the site of the
46 storage of a controlled substance with intent to sell or deliver
47 the controlled substance off the premises;

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

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

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

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59
60 may be declared to be a public nuisance, and such nuisance may
61 be abated pursuant to ~~the procedures provided in this section~~ if
62 the county or municipality has given prior notice to the owner
63 of the place or premises of its intent to declare the place or
64 premises a public nuisance and afforded the owner of the place
65 or premises the opportunity to abate the nuisance before taking
66 any official action against the place or premises pursuant to
67 this section.

68 (6) An order entered under subsection (4) ~~expires shall~~
69 ~~expire~~ after 1 year or at such earlier time as is stated in the
70 order unless the person has violated the order during the term
71 of the order. After providing notice to the person whose
72 activities have been declared to be a public nuisance, the board
73 shall conduct a hearing to determine whether the person violated
74 the administrative order entered under subsection (5). If the
75 board finds that the person violated the order, the board may
76 extend the term of the order by up to 1 additional year and may
77 impose an additional penalty to the extent authorized by this
78 section and by a supplemental county or municipal ordinance.

79 (11) ~~The provisions of~~ This section may be supplemented by
80 a county or municipal ordinance. The ordinance may include, but
81 need is not be limited to, provisions that establish additional
82 penalties for public nuisances, including fines not to exceed
83 \$250 per day for each day that the public nuisance activities
84 described in subsection (2) have occurred, including days
85 outside the 6-month period in which the minimum number of public
86 nuisance activities are shown to have occurred. The ordinance
87 may also, provide for the payment of reasonable costs, including

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88 reasonable attorney fees associated with investigations of and
89 hearings on public nuisances; provide for continuing
90 jurisdiction for a period of 1 year over any place or premises
91 that have ~~has~~ been or are ~~is~~ declared to be a public nuisance,
92 subject to an extension for up to 1 additional year as provided
93 in subsection (6); establish penalties, including fines not to
94 exceed \$500 per day for recurring public nuisances; provide for
95 the recording of orders on public nuisances so that notice must
96 be given to subsequent purchasers, successors in interest, or
97 assigns of the real property that is the subject of the order;
98 provide that recorded orders on public nuisances may become
99 liens against the real property that is the subject of the
100 order; and provide for the foreclosure of the property that is
101 subject to a lien and the recovery of all costs, including
102 reasonable attorney fees, associated with the recording of
103 orders and foreclosure. A ~~No~~ lien created pursuant to ~~the~~
104 ~~provisions of~~ this section may not be foreclosed on real
105 property that ~~which~~ is a homestead under s. 4, Art. X of the
106 State Constitution. When ~~where~~ a local government seeks to bring
107 an administrative action, based on a stolen property nuisance,
108 against a property owner operating an establishment where
109 multiple tenants, on one site, conduct their own retail
110 business, the property owner is ~~shall~~ not ~~be~~ subject to a lien
111 against his or her property or the prohibition of operation
112 provision if the property owner evicts the business declared to
113 be a nuisance within 90 days after notification by registered
114 mail to the property owner of a second stolen property
115 conviction of the tenant. The total fines imposed pursuant to
116 ~~the authority of~~ this section may ~~shall~~ not exceed \$15,000.

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117 ~~Nothing contained within~~ This section does not prohibit
118 ~~prohibits~~ a county or municipality from proceeding against a
119 public nuisance by any other means.

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