

SECOND REGULAR SESSION

# HOUSE BILL NO. 2336

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BASYE.

3207H.021

DANA RADEMAN MILLER, Chief Clerk

## AN ACT

To amend chapters 64 and 67, RSMo, by adding thereto two new sections relating to property regulations by certain counties.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapters 64 and 67, RSMo, are amended by adding thereto two new sections, to be known as sections 64.207 and 67.404, to read as follows:

**64.207. 1. The county commission of any county of the first classification with more than one hundred fifty thousand but fewer than two hundred thousand inhabitants may adopt rules, regulations, or ordinances to ensure the habitability of rented residences.**

**2. The rules, regulations, or ordinances shall require each rented residence provide:**

**(1) Structural protection from the elements;**

**(2) Access to water service, including hot water;**

**(3) Sewer service;**

**(4) Access to electrical service;**

**(5) Heat to the residence; and**

**(6) Basic security, which, at a minimum, shall include locking doors and windows.**

**If a utility service is unavailable because a tenant fails to pay for service, the unavailability shall not be a violation of the rules, regulations, or ordinances.**

**3. If a county elects to enact rules, regulations, or ordinances under this section, at a minimum, they shall contain the following provisions:**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16           **(1) The county commission shall create a process for selecting a designated officer**  
17 **to respond to complaints of the condition of a rented residence that threaten the health or**  
18 **safety of tenants;**

19           **(2) The owner of record of any rental residence with a complaint shall be served**  
20 **with adequate notice. The notice shall specify the condition alleged in the complaint and**  
21 **state a reasonable date abatement of the condition must commence. Notice shall be served**  
22 **by personal service or certified mail, return receipt requested, or, if those methods are**  
23 **unsuccessful, by publication;**

24           **(3) The owner of record and any other person who has an interest in the rented**  
25 **residence shall be parties in a hearing under subdivision (4) of this subsection;**

26           **(4) If work to abate the condition does not commence by the date stated in the**  
27 **notice or if the work does not proceed continuously and without unnecessary delay, as**  
28 **determined by the designated officer, the complaint shall be given a hearing before the**  
29 **county commission. Parties shall be given at least ten days' notice of the hearing. Any**  
30 **party may be represented by counsel, and all parties shall have an opportunity to be heard.**  
31 **If the county commission finds that the rented residence has a dangerous condition that is**  
32 **detrimental to the health, safety, or welfare of the tenant, the county commission shall issue**  
33 **an order that the condition be abated. The order shall state specific facts, based on**  
34 **competent and substantiated evidence, that support its finding. If the county commission**  
35 **finds that the rented residence does not have a dangerous condition that is detrimental to**  
36 **the health, safety, or welfare of the tenant, the county commission shall not issue an order;**  
37 **and**

38           **(5) Any violation of the order issued by the county commission may be punished**  
39 **by a penalty, which shall not exceed a class C misdemeanor. Each day a violation**  
40 **continues shall be deemed a separate violation. Any penalty enacted in the rules,**  
41 **regulations, or ordinances shall not be the exclusive punishment for the condition. The**  
42 **designated officer may, in his or her own name or in the name of the county, seek and**  
43 **obtain any judicial relief provided under equity or law including, but not limited to, civil**  
44 **fines authorized under section 49.272, declaratory relief, and injunctive relief. The**  
45 **designated officer may declare the continued occupancy of the rented residence unlawful**  
46 **while the condition or conditions remain unabated.**

**67.404. 1. As used in this section, the following terms mean:**

2           **(1) "Code or ordinance violation", a violation under the provisions of a municipal**  
3 **code or ordinance that regulates fire prevention, animal control, noise control, property**  
4 **maintenance, building construction, health, safety, neighborhood detriment, sanitation, or**  
5 **nuisances;**

- 6           (2) "Neighborhood organization", the same meaning as defined under section  
7 **82.1027;**
- 8           (3) "Nuisance", an activity or condition:
- 9           (a) Created, performed, maintained, or permitted to exist on private property that:
- 10           a. Constitutes a code or ordinance violation, regardless of whether the property has  
11 been cited by the city or county;
- 12           b. Causes the property to exist in a deteriorated condition, including conditions due  
13 to neglect or failure to reasonably maintain; abandonment; failure to repair after a fire,  
14 flood, or some other deterioration; or clutter on the property such as abandoned  
15 automobiles or appliances; or
- 16           c. If on commercial, industrial, or vacant property, encourages, promotes, or  
17 substantially contributes to unlawful activity within three hundred feet of the property;  
18 and
- 19           (b) That:
- 20           a. Diminishes the value of the neighboring property;
- 21           b. Is injurious to the public health, safety, security, or welfare of neighboring  
22 residents or businesses; or
- 23           c. Impairs the reasonable use or peaceful enjoyment of other properties in the  
24 neighborhood.
- 25           2. This section applies to any county of the first classification with more than one  
26 hundred fifty thousand but fewer than two hundred thousand inhabitants.
- 27           3. Any property owner who owns property within one thousand two hundred feet  
28 of a property alleged to be a nuisance may bring a nuisance action under this section  
29 against the offending property owner for court costs and the amount of damage to the  
30 value of the petitioner's property created by such nuisance, including the diminution in  
31 value of the petitioner's property.
- 32           4. An action for injunctive relief to abate a nuisance may be brought under this  
33 section by:
- 34           (1) Any property owner who owns property within one thousand two hundred feet  
35 of a property alleged to be a nuisance; or
- 36           (2) A neighborhood organization:
- 37           (a) On behalf of any person or persons who own property within the boundaries  
38 described in the articles of incorporation or bylaws of the neighborhood organization and  
39 who could maintain a nuisance action under this section or under the common law of  
40 private nuisance; or

41           **(b) On its own behalf with respect to a nuisance on property anywhere within the**  
42 **boundaries described in the articles of incorporation or bylaws of the neighborhood**  
43 **organization.**

44           **5. No action shall be brought under this section until sixty days after the party who**  
45 **brings the action sends written notice of an intent to bring an action under this section by**  
46 **certified mail, return receipt requested, postage prepaid to:**

47           **(1) The tenant, if any, or to "occupant" if the identity of the tenant cannot be**  
48 **reasonably ascertained, at the property's address; and**

49           **(2) The property owner of record at the last known address of the property owner**  
50 **on file with the county or city or, if the property owner is a corporation or other type of**  
51 **limited liability company, to the property owner's registered agent at the agent's address**  
52 **of record.**

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54 **The notice shall state that a nuisance exists and that legal action may be taken against the**  
55 **owner of the property if the nuisance is not eliminated within sixty days of the date on the**  
56 **written notice. If the notice sent by certified mail is returned unclaimed or refused,**  
57 **designated by the post office to be undeliverable, or signed for by a person other than the**  
58 **addressee, then posting a copy of the notice on the property of the alleged nuisance shall**  
59 **be adequate and sufficient notice. An affidavit by the person who mailed or posted the**  
60 **notice describing the date and manner that notice was given shall be sufficient evidence to**  
61 **establish that the notice was given. The notice shall specify the act or condition that**  
62 **constitutes the nuisance, the date the nuisance was first discovered, the address of the**  
63 **property and location on the property where the act or condition that constitutes the**  
64 **nuisance is allegedly occurring or exists, and the relief sought in the action.**

65           **6. A copy of a notice of citation issued by the city or county that shows the date the**  
66 **citation was issued shall be prima facie evidence of whether and for how long a citation has**  
67 **been pending against the property or the property owner.**

68           **7. A proceeding under this section shall:**

69           **(1) Be heard at the earliest practicable date; and**

70           **(2) Be expedited in every way.**

71           **8. When a property owner or neighborhood organization brings an action under**  
72 **this section for injunctive relief to abate a nuisance, a prima facie case for injunctive relief**  
73 **shall be made upon proof that a nuisance exists on the property. Such an action shall not**  
74 **require proof that the party bringing the action has sustained damage or loss as a result**  
75 **of the nuisance.**

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