

SECOND REGULAR SESSION

# HOUSE BILL NO. 2680

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BRATTIN.

6739H.021

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 321.310 and 321.330, RSMo, and to enact in lieu thereof two new sections relating to petitions to exclude property from a fire protection district.

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

Section A. Sections 321.310 and 321.330, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 321.310 and 321.330, to read as follows:

321.310. 1. Any owner of any real or personal property contained within the boundaries  
2 of the district may file with the board a petition praying that such property be excluded and taken  
3 from the district. Such petition shall describe the property which the petitioner desires to have  
4 excluded, and must be acknowledged in the same manner and form as required in case of a  
5 conveyance of land, and be accompanied by a deposit of money sufficient to pay all costs of the  
6 exclusion proceedings. The secretary of the board shall cause a notice of filing of such petition  
7 to be published in the county in which the property is located. The notice shall state the filing  
8 of such petition, the name of the petitioner, description of the property mentioned sought to be  
9 excluded and the prayer of the petitioner; and it shall notify all persons interested to appear at  
10 the office of the board at the time named in the notice, showing cause in writing, if any they  
11 have, why the petition should not be granted. The board at the time and place mentioned in the  
12 notice, or at the time or times at which the hearing of the petition may be adjourned, shall  
13 proceed to hear the petition and all objections thereto presented in writing by any person showing  
14 cause as aforesaid, why the prayer of the petition should not be granted. The filing of such  
15 petition shall be deemed and assent by the petitioner to the exclusion from the district of the  
16 property mentioned in the petition, or any part thereof.

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.

17           **2. Owners of individual parcels within a residential subdivision contained within**  
18 **the boundaries of the district may file with the board a petition praying that all real**  
19 **property within the subdivision be excluded and taken from the district. The petition**  
20 **shall:**

21           **(1) Be signed by every owner of a parcel within the subdivision sought to be**  
22 **excluded, which signatures shall be affixed before a person who shall certify, by affidavit**  
23 **acknowledged before a notary public, that the signatures were affixed in his or her**  
24 **presence;**

25           **(2) Describe the property that the petitioners desire to have excluded, which**  
26 **description can be the name of the residential subdivision and the plat book and page**  
27 **where recorded;**

28           **(3) Include a statement from any rural, volunteer, or subscription fire department**  
29 **or organization, volunteer fire protection association, or municipality that such entity or**  
30 **municipality will provide fire protection services to the subdivision either directly or by**  
31 **contract with another fire protection entity upon an order by the court excluding the**  
32 **subdivision from the district issued under this section; and**

33           **(4) Be accompanied by a deposit of moneys sufficient to pay all costs of the**  
34 **exclusion proceedings, which shall be consolidated to the extent feasible.**

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36 **The secretary of the board shall cause a notice of filing of such petition to be published in**  
37 **the county in which the subdivision is located. The notice shall state the filing of such**  
38 **petition, the names of the petitioners, a description of the property, the name of the fire**  
39 **department, organization, or association that will provide fire protection services if the**  
40 **petition is approved, and the prayer of the petitioners. The secretary shall notify all**  
41 **persons interested, including anyone who owns property within the subdivision, to appear**  
42 **at the office of the board at the time named in the notice, showing cause in writing, if any**  
43 **they have, why the petition should not be granted. The board at the time and place**  
44 **mentioned in the notice, or at the time or times at which the hearing of the petition may be**  
45 **adjourned, shall proceed to hear the petition and all objections thereto presented in writing**  
46 **by any person showing cause as aforesaid why the prayer of the petition should not be**  
47 **granted. The filing of such petition shall be deemed to be assent by the petitioners to the**  
48 **exclusion from the district of the property mentioned in the petition.**

49           **3. The board, if it deems it not for the best interests of the district that the property**  
50 **mentioned in the petition, or any portion thereof, shall be excluded from the district, shall order**  
51 **that the petition be denied; but if it determines that the property mentioned in the petition, or any**  
52 **portion thereof, cannot as a practical matter be served by the district or if it deems it for the best**

53 interest of the district that the property mentioned in the petition, or some portion thereof, be  
54 excluded from the district, then the board may order the property mentioned in the petition, or  
55 some portion thereof, excluded from the district. Upon allowance of such petition, the board  
56 shall file a certified copy of the order of the board making such change with the circuit clerk.  
57 Upon order of the court, the property shall be excluded from the district, and a copy of the order  
58 of the board and the order of the court shall be filed with the county clerk in each county in  
59 which the district lies. The circuit court having jurisdiction over the district shall make any such  
60 order excluding property from the district as provided in the order of the board, unless the court  
61 shall find that such order of the board was not authorized by law, or that such order of the board  
62 was not supported by competent and substantial evidence. Any person aggrieved by any decision  
63 of the board made pursuant to the provisions of this section may appeal that decision to the  
64 circuit court within thirty days of the decision for a trial de novo.

321.330. **1.** All real property included within, or excluded from, a district shall thereafter  
2 be subject to the levy of taxes for the payment of any indebtedness of the district outstanding at  
3 the time of inclusion or exclusion[; provided, however, that] .

4 **2.** After any real property [shall have] **has** been excluded from a district, as herein  
5 provided, any buildings and improvements thereafter erected or constructed on said excluded real  
6 property, and all machinery and equipment thereafter installed or placed therein or thereon, and  
7 all tangible personal property not in said district at the time of the exclusion of said real property  
8 from said district which shall thereafter be situate on or used in connection with said real  
9 property, shall not be subject to any taxes levied by said district.

10 **3. Any real property excluded from a district under subsection 2 of section 321.310**  
11 **shall not be subject to the provisions of subsection 1 of this section.**

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