

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 299
99TH GENERAL ASSEMBLY

0351H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 89.020, RSMo, and to enact in lieu thereof six new sections relating to real property.

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

Section A. Section 89.020, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 64.002, 65.702, 67.142, 82.462, 89.020, and 571.069 to read as follows:

64.002. For purposes of a zoning law, ordinance, or code authorized and enacted under this chapter, a zoning or property classification of agricultural or horticultural shall include any sawmill or planing mill as defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number 2421.

65.702. For purposes of a zoning law, ordinance, or code authorized and enacted under sections 65.650 to 65.700, a zoning or property classification of agricultural or horticultural shall include any sawmill or planing mill as defined in the U.S. Department of Labor's Standard Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number 2421.

67.142. 1. Nothing in this chapter shall be construed to limit in any manner the authority of any village, town, political subdivision, or city, including any home rule city, to prohibit dogs from running at large or to further control or regulate dogs within its boundaries, provided that no such ordinance, order, policy, or regulation is specific to breed.

2. The general assembly hereby occupies and preempts the entire field of legislation touching in any way the control or regulation of specific breeds of dogs to the complete

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.

8 exclusion of any order, ordinance, policy, or regulation by any village, town, or city,
9 including any home rule city, in this state. Any existing or future order, ordinance, policy,
10 or regulation in this field is or shall be null and void.

82.462. 1. Except as provided in subsection 3 of this section, a person who is not
2 the owner of real property or who is a creditor holding a lien interest on the property, and
3 who suspects that the real property may be abandoned, may enter upon the premises of the
4 real property to do the following:

5 (1) Without entering any structure located on the real property, visually inspect the
6 real property to determine whether the real property may be abandoned;

7 (2) Upon a good faith determination based upon the inspection that the property
8 is abandoned, perform any of the following actions:

9 (a) Secure the real property;

10 (b) Remove trash or debris from the grounds of the real property;

11 (c) Landscape, maintain, or mow the grounds of the real property;

12 (d) Remove or paint over graffiti on the real property.

13 2. A person who enters upon the premises and conducts the actions permitted in
14 subsection 1 of this section and who makes a good faith determination based upon the
15 inspection that the property is abandoned is immune from claims of civil and criminal
16 trespass and all other civil liability therefor, unless the act or omission constitutes gross
17 negligence or willful, wanton, or intentional misconduct.

18 3. In the case of real property that is subject to a mortgage or deed of trust, the
19 creditor holding the debt secured by the mortgage or deed of trust may not enter upon the
20 premises of the real property under subsection 1 of this section if entry is barred by an
21 automatic stay issued by a bankruptcy court.

22 4. For purposes of this section, "abandoned" property means:

23 (1) A vacant, unimproved lot zoned residential or commercial for which the owner
24 is in violation of a municipal nuisance or property maintenance code; or

25 (2) With respect to actions taken pursuant to this section by a creditor holding a
26 lien interest in the property, a property which contains a structure or building which has
27 been continuously unoccupied by persons legally entitled to possession for at least six
28 months prior to entry under this section and the creditor's debt secured by such lien
29 interest has been continuously delinquent for not less than three months; or

30 (3) With respect to actions taken pursuant to this section by persons other than
31 creditors, a property which contains a structure or building which has been continuously
32 unoccupied by persons legally entitled to possession for at least six months prior to entry

33 **under this section, and for which the owner is in violation of a municipal nuisance or**
34 **property maintenance code, and for which either:**

35 **(a) Ad valorem property taxes are delinquent; or**

36 **(b) The property owner has failed to comply with any municipal ordinance**
37 **requiring registration of vacant property, or the municipality has determined the structure**
38 **to be uninhabitable due to deteriorated conditions.**

39 **5. This section shall apply only to real property located in any home rule city with**
40 **more than four hundred thousand inhabitants and located in more than one county.**

89.020. 1. For the purpose of promoting health, safety, morals or the general welfare of
2 the community, the legislative body of all cities, towns, and villages is hereby empowered to
3 regulate and restrict the height, number of stories, and size of buildings and other structures, the
4 percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the
5 density of population, the preservation of features of historical significance, and the location and
6 use of buildings, structures and land for trade, industry, residence or other purposes.

7 2. For the purpose of any zoning law, ordinance or code, the classification single family
8 dwelling or single family residence shall include any home in which eight or fewer unrelated
9 mentally or physically handicapped persons reside, and may include two additional persons
10 acting as houseparents or guardians who need not be related to each other or to any of the
11 mentally or physically handicapped persons residing in the home. In the case of any such
12 residential home for mentally or physically handicapped persons, the local zoning authority may
13 require that the exterior appearance of the home and property be in reasonable conformance with
14 the general neighborhood standards. Further, the local zoning authority may establish reasonable
15 standards regarding the density of such individual homes in any specific single family dwelling
16 neighborhood.

17 3. No person or entity shall contract or enter into a contract which would restrict group
18 homes or their location as described in this section from and after September 28, 1985.

19 4. Any county, city, town or village which has a population of at least five hundred and
20 whose boundaries are partially contiguous with a portion of a lake with a shoreline of at least one
21 hundred fifty miles shall have the authority to enforce its zoning laws, ordinances or codes for
22 one hundred yards beyond the shoreline which is adjacent to its boundaries. In the event that a
23 lake is not large enough to allow any county, city, town or village to enforce its zoning laws,
24 ordinances or codes for one hundred yards beyond the shoreline without encroaching on the
25 enforcement powers granted another county, city, town or village under this subsection, the
26 counties, cities, towns and villages whose boundaries are partially contiguous to such lake shall
27 enforce their zoning laws, ordinances or orders under this subsection pursuant to an agreement
28 entered into by such counties, cities, towns ~~and~~ or villages.

29 5. Should a single family dwelling or single family residence as ~~defined~~ **described** in
30 subsection 2 of this section cease to operate for the purpose as set forth in subsection 2 of this
31 section, any other use of such home, other than allowed by local zoning restrictions, must be
32 approved by the local zoning authority.

33 6. For purposes of any zoning law, ordinance or code the classification of single family
34 dwelling or single family residence shall include any private residence licensed by the children's
35 division or department of mental health to provide foster care to one or more but less than seven
36 children who are unrelated to either foster parent by blood, marriage or adoption. Nothing in this
37 subsection shall be construed to relieve the children's division, the department of mental health
38 or any other person, firm or corporation occupying or utilizing any single family dwelling or
39 single family residence for the purposes specified in this subsection from compliance with any
40 ordinance or regulation relating to occupancy permits except as to number and relationship of
41 occupants or from compliance with any building or safety code applicable to actual use of such
42 single family dwelling or single family residence.

43 7. Any city, town, or village that is granted zoning powers under this section and is
44 located within a county that has adopted zoning regulations under chapter 64 may enact an
45 ordinance to adopt by reference the zoning regulations of such county in lieu of adopting its own
46 zoning regulations.

47 **8. For purposes of any zoning law, ordinance, or code authorized and enacted**
48 **under this section, a zoning or property classification of agricultural or horticultural shall**
49 **include any sawmill or planing mill as defined in the U.S. Department of Labor's Standard**
50 **Industrial Classification (SIC) Manual under Industry Group 242 with the SIC number**
51 **2421.**

571.069. 1. Any business enterprise electing to prohibit the possession of firearms
2 **or other arms by the placement of signs as authorized under section 571.107, or other**
3 **provisions of chapter 571, shall assume custodial responsibility for the safety and defense**
4 **of any person who is authorized to carry firearms or other arms under chapter 571 while**
5 **such person is on the premises of the business enterprise. The provisions of this section**
6 **shall not apply to private property not used for commercial purposes or private residences**
7 **of any type. For purposes of this section, "business enterprise" means any business that**
8 **sells or provides goods or services to the general public.**

9 **2. Notwithstanding any other provision of law, the requirement to ensure safety**
10 **and defense under subsection 1 of this section shall include a mandatory and explicit duty**
11 **to defend persons authorized to carry firearms or other arms under chapter 571 against**
12 **the intentional or reckless conduct of third parties including, but not limited to, persons**
13 **who are trespassers, employees, customers, or other invitees of the business enterprise.**

14 **The requirement to ensure safety and defense shall also include a duty to defend persons**
15 **authorized to carry firearms or other arms against vicious animals and wild animals. The**
16 **duty to defend such persons under this subsection shall apply only to the defense against**
17 **conduct that could reasonably have been prevented by the use of arms in lawful self-**
18 **defense. If a business enterprise restricts the possession of firearms or other arms under**
19 **chapter 571, then such business shall post, together with the notice and sign required under**
20 **section 571.107, notice stating that persons authorized to carry firearms or other arms**
21 **under chapter 571 are under the custodial responsibility of the business entity.**

22 **3. A person authorized to carry firearms or other arms under chapter 571 who is**
23 **injured, suffers bodily injury or death, incurs economic loss or expense, or suffers property**
24 **damage as a result of conduct breaching the duty to defend such person shall have a cause**
25 **of action against a business entity prohibiting the possession of firearms or other arms**
26 **under chapter 571.**

27 **4. The standard of proof for tort actions under this section shall require that a**
28 **plaintiff show by preponderance of the evidence that:**

29 **(a) He or she was authorized to carry firearms or other arms under chapter 571;**

30 **(b) He or she was lawfully prohibited from carrying firearms or other arms by**
31 **reason of a sign voluntarily posted by a business enterprise under section 571.107;**

32 **(c) He or she was prohibited from carrying firearms by a business enterprise that**
33 **is not required to prohibit firearms or other arms under state or federal law or by a rule**
34 **or policy enacted by a political subdivision or the state contracting with such business**
35 **entity; and**

36 **(d) The business enterprise's prohibition on carrying firearms or other arms was**
37 **the proximate cause of the damages, loss, or injury suffered by the plaintiff.**

38 **5. If a plaintiff is successful in a lawsuit under this section, then he or she shall be**
39 **entitled to reasonable attorneys' fees, expert witness costs, and court costs.**

40 **6. The statute of limitations for an action under this section shall be two years from**
41 **the date of the occurrence giving rise to the damages, loss, or injury.**

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