

HCS SS SB 3 -- REAL PROPERTY REGULATION

SPONSOR: Curls (Hannegan)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Local Government by a vote of 12 to 0.

ABANDONED REAL PROPERTY IN CERTAIN CITIES

This bill allows a person who is not the owner of real property in Kansas City, St. Louis County, Independence, St. Joseph, Springfield, or St. Louis City or who is a creditor holding a lien interest on the property, and who suspects that the real property may be abandoned, to enter the premises to visually inspect the property to determine whether it is abandoned. Any person who enters the property, according to the provisions of the bill, will not have a right to a mechanics lien. If the person makes a good faith determination based on the inspection that the property is abandoned, the person may secure the property, remove trash or debris from the grounds, landscape, maintain, or mow the grounds, and remove or paint over graffiti. This bill provides immunity for the person entering the property from claims of civil and criminal trespass and all other civil immunity, as well as barring an action against the property owners in certain circumstances, unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct.

This bill specifies that, in the case of real property that is subject to a mortgage or deed of trust, the creditor holding the debt secured by the mortgage or deed of trust may not enter the premises of the real property if the entry is barred by an automatic stay issued by a bankruptcy court (Section 82.462, RSMo).

NUISANCE ACTION AGAINST ANOTHER PROPERTY OWNER IN CERTAIN CITIES AND COUNTIES

This bill modifies how actions against another property owner whose property is a nuisance are brought in certain cities and counties, including Springfield. Specifically, this bill modifies how notice of a nuisance is given to the property owner or tenant. Also, this bill modifies how proceedings for injunctive relief against the property owner are conducted.

The definitions of the terms "code or ordinance violation," "nuisance," and "neighborhood organizations," as they are used in these sections, are modified. Property owners and certain neighborhood organizations seeking injunctive relief under this bill will no longer have to show they are suffering actual damages as a result of the nuisance in order to bring such an action.

Additionally, this bill permits attorney's fees being awarded in certain circumstances to the party who brought the action.

Finally, this bill modifies a defense available to property owners who are acting in good faith to comply with all orders rather than an order issued by the Department of Natural Resources, the U.S. Environmental Protection Agency, or the Office of the Attorney General (Sections 82.1025, 82.1027, and 82.1030).

VACANT NUISANCE PROPERTY IN KANSAS CITY

Currently, the Kansas City Council may enact an ordinance to allow the city building official to petition the county circuit court for the appointment of a receiver to rehabilitate a vacant nuisance building or structure, demolish it, or sell it to a qualified buyer.

This bill modifies the provision to provide that Kansas City and Springfield can petition the circuit court. In addition, rather than allowing a sale to a qualified buyer, this bill provides that the property may be sold to a buyer who can demonstrate an ability to abate the nuisance and vacancy. The court must maintain jurisdiction over the matter and the property until the city dismisses the case or the nuisance and vacancy is abated (Section 82.1026).

PROPOSERS: Supporters say that this would be very helpful and lessen the financial burden on governments.

Testifying for the bill were Senator Curls; City of Independence, City of St Louis, St Louis County; and the City of Kansas City.

OPPOSERS: There was no opposition voiced to the committee.