

Assembly Bill No. 131—Assemblymen McClain, Parks, Bache, Price, Williams, Anderson, Arberry, Buckley, Chowning, Claborn, de Braga, Dini, Freeman, Giunchigliani, Goldwater, Koivisto, Lee, Leslie, Manendo, Neighbors, Nolan, Ocegüera, Parnell, Perkins and Smith

Joint Sponsors: Senators Care and Titus

CHAPTER.....

AN ACT relating to local governments; expanding the authority of the board of county commissioners of a county to abate nuisances, dangerous structures and dangerous conditions; authorizing the recovery of any applicable costs for the relocation of tenants incurred by the county in abating certain conditions; providing that a board of county commissioners may levy a special assessment to collect costs incurred by the county in abating certain conditions instead of imposing a lien; authorizing a board of county commissioners to adopt certain housing codes; expanding the authority of the governing body of certain cities to abate certain types of nuisances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a board of county commissioners determines that a nuisance or other condition described in NRS 244.3601, 244.3603 or 244.3605 requires the relocation of tenants, the board may arrange for the relocation of the tenants and may, in accordance with subsection 2, recover the cost of such relocation from the person determined by the board to be primarily responsible for creating the nuisance or other condition that required the relocation of the tenants.

2. Before a board of county commissioners recovers from a person the cost of relocating tenants, the board shall:

(a) Send notice, by certified mail, return receipt requested, to the person from whom the board seeks to recover the cost of the relocation, setting forth the date by which the person must remit payment to the county; and

(b) Afford the person from whom the board seeks to recover the cost of the relocation an opportunity for a hearing before the designee of the board and an appeal of that decision to the board.

The date specified in the notice by which the person must remit payment to the county is tolled for the period during which the person requests a hearing and receives a decision.

3. If a person appeals the decision of the designee to the board as described in paragraph (b) of subsection 2 and is aggrieved by the determination of the board, the person may, within 30 days after the making of the determination, appeal to the district court of the county. A judicial review authorized pursuant to this subsection must be limited to whether the determination was arbitrary, capricious or otherwise characterized by an abuse of discretion and must be conducted in accordance with the procedures set forth in chapter 233B of NRS for reviewing a final decision of an agency.

Sec. 2. NRS 244.3601 is hereby amended to read as follows:

244.3601 1. Notwithstanding the abatement procedures set forth in NRS 244.360, a board of county commissioners may, by ordinance, provide for a reasonable means to secure a dangerous structure or condition that ~~is determined to be an imminent danger to the surrounding neighborhood by~~ at least three persons ~~appointed by the board~~ who enforce building codes, *housing codes*, zoning ordinances or local health regulations, or *who* are members of a local law enforcement agency or fire department ~~to determine in a signed, written statement to be an imminent danger to the surrounding neighborhood.~~ The owner of the property on which the structure or condition is located must be given *reasonable written* notice ~~at least 72 hours~~ that is:

(a) If practicable, hand-delivered or sent prepaid by United States mail to the owner of the property; or

(b) Posted on the property,

before the structure or condition is so secured. *The notice must state clearly that the owner of the property may challenge the action to secure the structure or condition and must provide a telephone number and address at which the owner may obtain additional information.*

2. The costs of securing the structure or condition may be made a special assessment against the real property on which the structure or condition is located and may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

3. As used in this section, "imminent danger" means the existence of any structure or condition that could reasonably be expected to cause injury or endanger the safety or health of ~~the~~:

(a) The occupants, if any, of the real property on which the structure or condition is located; or

(b) The general public.

Sec. 3. NRS 244.3603 is hereby amended to read as follows:

244.3603 1. Each board of county commissioners may, by ordinance, to protect the public health, safety and welfare of the residents of the county, adopt procedures pursuant to which the district attorney may file an action in a court of competent jurisdiction to:

(a) Seek the abatement of a chronic nuisance that is located or occurring within the unincorporated area of the county;

(b) If applicable, seek the closure of the property where the chronic nuisance is located or occurring; and

(c) If applicable, seek penalties against the owner of the property within the unincorporated area of the county and any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent a notice, by certified mail, return receipt requested, by the sheriff or other person authorized to issue a citation of the existence on his property of ~~two or more~~ nuisance activities and the date by which he must abate the condition to prevent the matter from being submitted to the district attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended ~~{for labor and materials used}~~ to abate the condition on the property if the owner fails to abate the condition.

3. If the court finds that a chronic nuisance exists and ~~{emergency}~~ action is necessary to avoid ~~{immediate}~~ *serious* threat to the public welfare or *the* safety ~~{}~~ *or health of the occupants of the property*, the court ~~{shall}~~ *may* order the county to secure and close the property ~~{for a period not to exceed 1 year or}~~ until the nuisance is abated ~~{, whichever occurs first,}~~ and may:

(a) Impose a civil penalty of not more than \$500 per day for each day that the condition was not abated after the date specified in the notice by which the owner was required to abate the condition;

(b) Order the owner to pay the county for the cost incurred by the county in abating the condition; and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the county to abate the chronic nuisance, the board may ~~{provide that}~~ *make* the expense ~~{is a lien upon}~~ *a special assessment against* the property upon which ~~{such a}~~ *the* chronic nuisance is located or occurring. The ~~{lien must be perfected by:~~

~~—(a) Mailing by certified mail a notice of the lien, separately prepared for each lot affected, addressed to the last known owner of the property at his last known address, as determined by the real property assessment roll in the county in which the property is located; and~~

~~—(b) Filing with the county recorder of the county in which the property is located, a statement of the amount due and unpaid and describing the property subject to the lien.}~~ *special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.*

5. As used in this section:

(a) A “chronic nuisance” exists:

(1) When three or more nuisance activities exist or have occurred during any ~~{30-day}~~ *90-day* period on the property;

(2) When a person associated with the property has engaged in three or more nuisance activities during any ~~{30-day}~~ *90-day* period on the property or within 100 feet of the property;

(3) When the property has been the subject of a search warrant based on probable cause of continuous or repeated violations of chapter 459 of NRS; or

(4) When a building or place is used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, using or giving away a controlled substance, immediate precursor as defined in NRS 453.086 or controlled substance analog as defined in NRS 453.043.

(b) “Nuisance activity” means:

(1) Criminal activity;

(2) The presence of debris, litter, garbage, rubble, abandoned or junk vehicles or junk appliances;

(3) *Violations of building codes, housing codes or any other codes regulating the health or safety of occupants of real property;*

(4) Excessive noise and violations of curfew; or

~~(4)~~ (5) Any other activity, behavior or conduct defined by the board to constitute a public nuisance.

(c) "Person associated with the property" means ~~that~~ :

(1) *The owner of the property;*

(2) *The manager or assistant manager of the property;*

(3) *The tenant of the property; or*

(4) A person who, on the occasion of a nuisance activity, has:

~~(1)~~ (I) Entered, patronized or visited;

~~(2)~~ (II) Attempted to enter, patronize or visit; or

~~(3)~~ (III) Waited to enter, patronize or visit,

~~that~~ the property or a person present on the property.

Sec. 4. NRS 244.3605 is hereby amended to read as follows:

244.3605 1. Notwithstanding the provisions of NRS 244.360 and 244.3601, the board of county commissioners of a county may adopt by ordinance procedures pursuant to which the board or its designee may order an owner of property within the county to:

(a) Repair, safeguard or ~~demolish~~ *eliminate* a dangerous structure ~~that~~ *or condition;*

(b) Clear debris, rubbish and refuse which is not subject to the provisions of chapter 459 of NRS; or

(c) Clear weeds and noxious plant growth, to protect the public health, safety and welfare of the residents of the county.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, of the existence on his property of a condition set forth in subsection 1 and the date by which he must abate the condition; and

(2) Afforded an opportunity for a hearing before the designee of the board and an appeal of that decision to the board.

(b) Provide that the date specified in the notice by which the owner must abate the condition is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the county will recover money expended ~~for labor and materials used~~ to abate the condition on the property if the owner fails to abate the condition.

(d) Provide for civil penalties for each day that the owner did not abate the condition after the date specified in the notice by which the owner was required to abate the condition.

3. The board or its designee may direct the county to abate the condition on the property and may recover the amount expended by the county for labor and materials used to abate the condition if:

(a) The owner has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to abate the condition on his property within the period specified in the notice ; ~~that~~

(b) After a hearing in which the owner did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted

pursuant to subsection 1 and has failed to abate the condition within the period specified in the order ~~it~~; or

(c) The board has denied the appeal of the owner and the owner has failed to abate the condition within the period specified in the order.

4. In addition to any other reasonable means of recovering money expended by the county to abate the condition, the board may ~~provide that~~ make the expense ~~is a lien upon~~ a special assessment against the property upon which ~~such a~~ the condition is located. The ~~lien must be perfected by:~~

~~— (a) Mailing by certified mail a notice of the lien, separately prepared for each lot affected, addressed to the last known owner of the property at his last known address, as determined by the real property assessment roll in the county in which the property is located; and~~

~~— (b) Filing with the county recorder of the county in which the property is located, a statement of the amount due and unpaid and describing the property subject to the lien.~~ special assessment may be collected pursuant to the provisions set forth in subsection 4 of NRS 244.360.

5. As used in this section, “dangerous structure or condition” means a structure or condition that may cause injury to or endanger the health, life, property or safety of the general public or the occupants, if any, of the real property on which the structure or condition is located. The term includes, without limitation, a structure or condition that:

(a) Does not meet the requirements of a code or regulation adopted pursuant to NRS 244.3675 with respect to minimum levels of health or safety; or

(b) Violates an ordinance, rule or regulation regulating health and safety enacted, adopted or passed by the board of county commissioners of a county, the violation of which is designated as a nuisance in the ordinance, rule or regulation.

Sec. 5. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations ~~contained~~ set forth in NRS 244.368, 278.580, 278.582 and 444.340 to 444.430, inclusive, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, *housing*, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada, the University and Community College System of Nevada or any school district.

Sec. 6. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of each city which is located in a county whose population is 100,000 or more may, by ordinance, to protect the public health, safety and welfare of the residents of the city, adopt procedures pursuant to which the city attorney may file an action in a court of competent jurisdiction to seek:

(a) The abatement of an abandoned nuisance that is located or occurring within the city;

(b) The repair, safeguarding or demolition of any structure or property where an abandoned nuisance is located or occurring within the city;

(c) Authorization for the city to take the actions described in paragraphs (a) and (b);

(d) Civil penalties against an owner of any structure or property where an abandoned nuisance is located or occurring within the city; and

(e) Any other appropriate relief.

2. An ordinance adopted pursuant to subsection 1 must:

(a) Contain procedures pursuant to which the owner of the property is:

(1) Sent notice, by certified mail, return receipt requested, by a person authorized by the city to issue a citation of the existence on his property of three or more abandoned nuisance activities and the date by which he must abate the abandoned nuisance to prevent the matter from being submitted to the city attorney for legal action; and

(2) Afforded an opportunity for a hearing before a court of competent jurisdiction.

(b) Provide that the date specified in the notice by which the owner must abate the abandoned nuisance is tolled for the period during which the owner requests a hearing and receives a decision.

(c) Provide the manner in which the city will, if the owner fails to abate the abandoned nuisance, recover money expended for labor and materials used to:

(1) Abate the abandoned nuisance on the property; or

(2) If applicable, repair, safeguard or demolish a structure or property where the abandoned nuisance is located or occurring.

3. If the court finds that an abandoned nuisance exists, the court shall order the owner of the property to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring, and may:

(a) If applicable, order the owner of the property to pay reasonable expenses for the relocation of any tenants who occupy the property legally and who are affected by the abandoned nuisance;

(b) If the owner of the property fails to comply with the order:

(1) Direct the city to abate the abandoned nuisance or repair, safeguard or demolish any structure or property where the abandoned nuisance is located or occurring; and

(2) Order the owner of the property to pay the city for the cost incurred by the city in taking the actions described in subparagraph (1); and

(c) Order any other appropriate relief.

4. In addition to any other reasonable means authorized by the court for the recovery of money expended by the city to abate the abandoned nuisance, the governing body of the city may provide that the expense is a lien upon the property upon which such an abandoned nuisance is located or occurring. The lien must be perfected by:

(a) Mailing by certified mail a notice of the lien, separately prepared for each lot affected, addressed to the last known owner of the property at

his last known address, as determined by the real property assessment roll in the county in which the property is located; and

(b) Filing with the county recorder of the county in which the property is located, a statement of the amount due and unpaid and describing the property subject to the lien.

5. As used in this section:

(a) An "abandoned nuisance" exists on any property where a building or other structure is located on the property, the property is located in a city that is in a county whose population is 100,000 or more, the property has been vacant or substantially vacant for 2 years or more and:

(1) Three or more abandoned nuisance activities exist or have occurred on the property during any 12-month period; or

(2) A person associated with the property has caused or engaged in three or more abandoned nuisance activities during any 12-month period on the property or within 100 feet of the property.

(b) "Abandoned nuisance activity" means:

(1) Instances of unlawful breaking and entering or occupancy by unauthorized persons;

(2) The presence of graffiti, debris, litter, garbage, rubble, abandoned materials, inoperable vehicles or junk appliances;

(3) The presence of unsanitary conditions or hazardous materials;

(4) The lack of adequate lighting, fencing or security;

(5) Indicia of the presence or activities of gangs;

(6) Environmental hazards;

(7) Violations of city codes, ordinances or other adopted policy; or

(8) Any other activity, behavior, conduct or condition defined by the governing body of the city to constitute a threat to the health, safety or welfare of the residents of or visitors to the city.

(c) "Person associated with the property" means a person who, on the occasion of an abandoned nuisance activity, has:

(1) Entered, patronized or visited;

(2) Attempted to enter, patronize or visit; or

(3) Waited to enter, patronize or visit, a property or a person present on the property.