

## CHAPTER 657A

## ABANDONED OR UNSAFE BUILDINGS — ABATEMENT BY REHABILITATION

Referred to in §6B.56, 446.7

Nuisances in general, chapter 657

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**657A.1 Definitions.**

As used in [this chapter](#), unless context requires otherwise:

1. “*Abandoned*” or “*abandonment*” means that a building is vacant, or is occupied only by trespassers, and in violation of the housing code or building code of the city in which the property is located or the housing code or building code applicable in the county in which the property is located if outside the limits of a city.

2. “*Abate*” or “*abatement*” in connection with property means the removal or correction of hazardous conditions deemed to constitute a public nuisance or the making of improvements needed to effect a rehabilitation of the property consistent with maintaining safe and habitable conditions over the remaining useful life of the property. However, the closing or boarding up of a building or structure that is found to be a public nuisance is not an abatement of the nuisance.

3. “*Building*” means a building or structure, excluding a mobile home, a modular home, and a manufactured home as defined in [section 435.1](#), unless the mobile home or manufactured home has been converted to real estate pursuant to [section 435.26](#), located in a city or outside the limits of a city in a county, which is used or intended to be used for commercial or industrial purposes or which is used or intended to be used for residential purposes and includes a building or structure in which some floors may be used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and other floors are used, designed, or intended to be used for residential purposes.

4. “*Interested person*” means an owner, mortgagee, lienholder, or other person that possesses an interest of record or an interest otherwise provable in property that becomes subject to the jurisdiction of the court pursuant to [this chapter](#), the city in which the property is located, the county in which the property is located if the property is located outside the limits of a city, and an applicant for the appointment as receiver pursuant to [this chapter](#).

5. “*Neighboring landowner*” means an owner of property which is located within five hundred feet of property that becomes subject to the jurisdiction of the court pursuant to [this chapter](#).

6. “*Owner*” includes a person who is purchasing property by land installment contract or under a duly executed purchase contract.

7. “*Public nuisance*” means a building that is a menace to the public health, welfare, or safety, or that is structurally unsafe, unsanitary, or not provided with adequate safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or that in relation to the existing use constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

8. “*Responsible building official*” or “*official*” means the person appointed by the city or,

if the building is outside the limits of a city, the county, to enforce its building codes and regulations in general or to enforce [this chapter](#) in particular.

85 Acts, ch 222, §1; 86 Acts, ch 1059, §1; 96 Acts, ch 1204, §27; 2015 Acts, ch 136, §49, 54, 55; 2019 Acts, ch 105, §3, 4

Referred to in §404.3B, 446.19B, 448.13  
Subsections 1 and 3 amended  
NEW subsection 8

#### **657A.1A Preliminary inspection of building.**

1. No sooner than one hundred thirty-five days after a property has become vacant, a person, other than a governmental entity, may request that the responsible building official inspect the property and certify that a property is both abandoned and in need of abatement. The responsible building official may also initiate an inspection on the official's own initiative at any time.

2. If the responsible building official finds from an exterior view of the property, in addition to any other credible information that the official may have, that there is reasonable cause to believe that the property is abandoned and in need of abatement, the official shall schedule a date and time for an inspection of the property by the official. The person requesting the inspection shall provide written notice of the scheduled inspection by first class mail and certified mail to the owner and all interested persons at least twenty days before the inspection. The notice must state the date, time, and place of the inspection and state that unless the owner appears at the inspection to allow the responsible building official access to the interior of the property, the official, accompanied by the person serving notice and any interested persons appearing for the inspection, may enter the property to determine whether the property is abandoned and in need of abatement and, if so, to estimate the costs of abatement. The official may enter the property for an inspection, along with the person serving notice and any interested persons, if the owner is not present for the inspection. Upon request, the inspection may be rescheduled as needed. The responsible building official must obtain an administrative search warrant pursuant to [section 808.14](#) to enter any building to conduct an inspection pursuant to [this section](#).

3. The responsible building official's findings shall be in writing with copies provided to the person requesting the inspection, the owner, and all interested parties. The governmental entity employing the responsible building official may establish and charge a fee to cover the reasonable costs of the inspection, which shall be added to costs in an action under [this chapter](#).

4. Evidence that financial obligations in respect to a building, including but not limited to payments of a mortgage, bills, or property taxes, are currently met does not rebut a finding of abandonment if the property is substantially in need of abatement in an action filed under [section 657A.2](#).

2019 Acts, ch 105, §5

Referred to in §631.1, 657A.2, 657A.8, 657A.10A, 657A.10B  
NEW section

#### **657A.2 Petition.**

1. No sooner than the latter of thirty days after provision of the responsible building official's findings under [section 657A.1A](#) and six months after a building has become abandoned, a petition for abatement under [this chapter](#) may be filed in the district court of the county in which the property is located by the city in which the property is located, by the county if the property is located outside the limits of a city, by a neighboring landowner, or by a duly organized nonprofit corporation which has as one of its goals the improvement of housing conditions in the county or city in which the property in question is located. The petition shall not demand a personal judgment against any party, but shall concern only the interests in the property. A petition for abatement filed under [this chapter](#) shall include the legal description of the real property upon which the public nuisance is located unless the public nuisance is not situated on or confined to a parcel of real property, or is portable or capable of being removed from the real property. Service shall be made on all interested persons by personal service or, if personal service cannot be made, by certified mail and

first class mail to the last known address of record of the interested person and by posting the notice in a conspicuous place on the building, or by publication. The last known address of record for the property owner shall be the address of record with the county treasurer of the county where the property is located. Service may also be made as provided in [section 654.4A](#).

2. If entering judgment, the court shall determine any issues at law, including issues relating to title, raised by the plaintiff or by a party in interest who has filed a motion or answer.

3. In any evidentiary hearing or motion in a proceeding under [this chapter](#), the written findings of the responsible building official relating to the condition of the building and other matters within the scope of [this chapter](#), if provided at least ten days before the hearing to all persons not in default, shall be accepted as evidence without prejudice to the right of any party to require the personal testimony of the responsible building official at the hearing.

4. If the court finds at a hearing pursuant to [this section](#) that the building is abandoned or is a public nuisance, the court may issue an injunction requiring the owner to correct any conditions that make such building a public nuisance, or issue another order that the court deems appropriate to address the public nuisance.

5. If the court finds at a hearing pursuant to [this section](#) that the building is abandoned, unless the court order establishes otherwise, the property shall be deemed continuously abandoned from the date the action is indexed pursuant to [section 617.10, subsection 1](#).

6. A property shall not be claimed as homestead pursuant to [chapter 561](#) on or after the date determined in [subsection 5](#).

7. In a proceeding under [this section](#), if the court determines the building is not abandoned, the court shall dismiss the petition and may require the petitioner to pay an interested party's reasonable attorney fees. An owner of the property who failed to appear for an inspection pursuant to [section 657A.1A](#) shall not be awarded attorney fees under [this section](#).

8. If a party to the action holds an interest in the property as a nominee, a fiduciary, or another representative capacity for a third party, or an underlying loan on the property is guaranteed by a third party, the party to the action may apply to the court for a stay of action, as it affects the party's interest, for a reasonable time to allow the party to obtain the appropriate authority, information, or instructions from or on behalf of the beneficiary or guarantor as related to the property interest or underlying loan.

[85 Acts, ch 222, §2; 87 Acts, ch 113, §1, 2; 96 Acts, ch 1204, §28; 2004 Acts, ch 1165, §9, 11; 2010 Acts, ch 1050, §10; 2019 Acts, ch 105, §6](#)

Referred to in [§655A.6, 657A.1A, 657A.7, 657A.10A, 657A.10B, 657A.10C](#)  
Section stricken and rewritten

### **657A.3 Interested persons — opportunity to abate public nuisance.**

1. Before appointing a receiver to perform work or to furnish material to abate a public nuisance under [this chapter](#), the court shall establish a date before which interested persons may file with the court written proof of intent and ability to promptly undertake the work required and to post security for the performance of the work. If no such written proof is filed by that date, the court may appoint a receiver pursuant to [subsection 3](#).

2. All amounts expended by the person toward abating the public nuisance are a lien on the property if the expenditures are approved in advance by a judge and if the person desires the lien. Unless an interested person has a contract with the owner providing for a different interest rate, the lien shall bear interest at the rate provided for judgments pursuant to [section 535.3](#), and shall be payable upon terms approved by the judge. If a certified copy of a court order approving the expenses and the terms of payment for the lien, and a description of the property in question, are filed of record within thirty days of the date of issuance of the order in the office of the county recorder of the county in which the property is located, the lien has the same priority as the mortgage of a receiver as provided in [section 657A.7](#).

3. If the court determines by the date established in [subsection 1](#) or at a hearing on the sufficiency of a timely filed rehabilitation plan that no interested person can undertake the work and furnish the materials required to abate the public nuisance, or if the court

determines at any time after the hearing that an interested person who is undertaking corrective work pursuant to [this section](#) cannot or will not proceed, or has not proceeded with due diligence, the court may appoint a receiver to take possession and control of the property. The receiver shall be appointed in the manner provided in [section 657A.4](#).

4. If the building is a historic building or is located in a designated historic district, the court shall give preference to an economically feasible rehabilitation plan that preserves the historical nature of the building.

5. Unless a receiver's mortgage provides for periodic payments, a notice, in lieu of the notice pursuant to [section 654.2D](#), shall also be served by ordinary or electronic mail informing all interested persons of the date certain for the maturity of the mortgage note, or the event triggering maturity of the mortgage note, and that on maturity the receiver's mortgage loan will be payable in full and the mortgagee may then commence foreclosure without further notice. A notice pursuant to [section 654.4B](#) shall also be served by ordinary or electronic mail on the owner of record of the property. The mortgagee shall not commence foreclosure of the mortgage until sixty calendar days have passed since the date of service of a notice under [this subsection](#).

[85 Acts, ch 222, §3; 2019 Acts, ch 105, §7](#)

Referred to in [§657A.4, 657A.10A, 657A.10B](#)

Section amended

#### **657A.4 Appointment of receiver.**

If after expiration of a date established pursuant to [section 657A.3, subsection 1](#), or a hearing pursuant to [section 657A.3](#), the court may appoint a receiver to take possession and control of the property in question. A person shall not be appointed as a receiver unless the person has first provided the court with a viable financial and construction plan for the rehabilitation of the property in question and has demonstrated the capacity and expertise to perform the required work in a satisfactory manner. The appointed receiver may be a financial institution that possesses an interest of record in the property, a nonprofit corporation that is duly organized and exists for the primary purpose of improving housing conditions in the county or city in which the property in question is located, or any person deemed qualified by the court. No part of the net earnings of a nonprofit corporation serving as a receiver under [this section](#) shall benefit a private shareholder or individual. Membership on the board of trustees of a nonprofit corporation does not constitute the holding of a public office or employment and is not an interest, either direct or indirect, in a contract or expenditure of money by a city or county. No member of a board of trustees of a nonprofit corporation appointed as receiver is disqualified from holding public office or employment, nor is a member required to forfeit public office or employment by reason of the membership on the board of trustees.

[85 Acts, ch 222, §4; 96 Acts, ch 1204, §29; 2019 Acts, ch 105, §8](#)

Referred to in [§657A.3, 657A.10A, 657A.10B](#)

Section amended

#### **657A.5 Determination of costs of abatement.**

1. Prior to ordering work or the furnishing of materials to abate a public nuisance under [this chapter](#), the court shall make all of the following findings:

a. The estimated cost of the labor, materials, and financing required to abate the public nuisance.

b. The estimated income and expenses of the property after the furnishing of the materials and the completion of the repairs and improvements.

c. The need for and terms of financing for the performance of the work and the furnishing of the materials.

d. If repair and rehabilitation of the property are not found to be feasible, the cost of demolition of the property or the portions of the property that constitute the public nuisance.

2. Upon the written request of all the known interested persons to have the property or portions of the property demolished, the court may order the demolition. However,

demolition shall not be ordered unless the requesting persons have paid the costs of demolition, the costs of the receivership, and all notes and mortgages of the receivership.

[85 Acts, ch 222, §5](#)

Referred to in [§657A.10A](#), [657A.10B](#)

#### **657A.6 Powers and duties of receiver.**

Before proceeding with the receiver's duties, a receiver appointed by the court shall post a bond in an amount designated by the court. The court may empower the receiver to do the following:

1. Take possession and control of the property, operate and manage the property, establish and collect rents and income, lease and rent the property, and evict tenants. An existing housing or building ordinance violation does not restrict the receiver's authority pursuant to [this subsection](#).

2. Pay all expenses of operating and conserving the property, including but not limited to the cost of electricity, gas, water, sewerage, heating fuel, repairs and supplies, custodian services, taxes, assessments, and insurance premiums, and hire and pay reasonable compensation to a managing agent.

3. Pay prereceivership mortgages and other liens and installments of prereceivership mortgages and other liens.

4. Perform or enter into contracts for the performance of work and the furnishing of materials necessary to abate the public nuisance, and obtain financing for the abatement of the public nuisance.

5. Pursuant to court order, remove and dispose of personal property which is abandoned, stored, or otherwise located on the property, that creates a dangerous or unsafe condition or that constitutes a violation of housing or building regulations or ordinances.

6. Obtain mortgage insurance for a receiver's mortgage from an agency of the federal government.

7. Enter into agreements and take actions necessary to maintain and preserve the property and to comply with housing and building regulations and ordinances.

8. Give the custody of the property and the opportunity to abate the nuisance and operate the property to the owner or to a mortgagee or a lienholder of record.

9. Issue notes and secure the notes by mortgages bearing interest at the rate provided for judgments pursuant to [section 535.3](#), and any terms and conditions as approved by the court. The court may provide for a higher interest rate if the receiver has established to the satisfaction of the court that the receiver has sought financing from individuals and institutions willing to lend money for rehabilitation of property and that the terms proposed by the receiver are reasonable. When transferred by the receiver in return for valuable consideration including money, material, labor, or services, the notes issued by the receiver are freely transferable. If the receiver has notice that the mortgagee of the receiver's mortgage is contemplating a transfer of the mortgage, the receiver shall disclose such to the court in the application for approval of the mortgage.

[85 Acts, ch 222, §6](#); [2019 Acts, ch 105, §9](#)

Referred to in [§657A.8](#), [657A.10A](#), [657A.10B](#)

Subsection 9 amended

#### **657A.6A Receiver — prohibited acts.**

Notwithstanding [section 657A.10](#), it shall be unlawful, and a receiver may be held liable for actual damages as determined by a court, for entering a residential property that is not abandoned for the purpose of forcing, intimidating, harassing, or coercing a lawful occupant of the property to vacate in order to render the property vacant and abandoned, and it shall be unlawful to otherwise force, intimidate, harass, or coerce a lawful occupant of a residential property to vacate so the property may be deemed vacant and abandoned. A receiver who peacefully enters a property for the purpose of rendering the property vacant and abandoned shall be immune from liability if the receiver makes a good-faith effort to comply with [this](#)

[chapter](#) and all terms of any applicable mortgage, lease, or other agreement related to the occupancy of the building.

[2019 Acts, ch 105, §10](#)

Referred to in [§657A.10A, 657A.10B](#)  
NEW section

#### **657A.7 Priority of receiver's mortgage.**

1. If the receiver's mortgage is filed of record in the office of the county recorder of the county in which the property is located within sixty days of the issuance of a secured note, the receiver's mortgage is a first lien upon the property and is superior to claims of the receiver and to all prior or subsequent liens and encumbrances except taxes and assessments, including taxes and assessments advanced by any mortgagee in the twelve-month period immediately preceding the date a petition is filed pursuant to [section 657A.2](#). Priority among the receiver's mortgages is determined by the order in which the mortgages are recorded.

2. The creation of a mortgage lien under [this chapter](#) prior to or superior to a mortgage of record at the time the receiver's mortgage lien was created does not disqualify a prior recorded mortgage as a legal investment.

3. If a mortgagee of the receiver's mortgage begins foreclosure procedures pursuant to [chapter 655A](#) and an interested party desires to pay off the mortgage loan, the interested party shall also pay the mortgagee's reasonable costs and attorney fees.

[85 Acts, ch 222, §7; 2019 Acts, ch 105, §11, 12](#)

Referred to in [§657A.3, 657A.8, 657A.10A, 657A.10B](#)  
Subsection 1 amended  
NEW subsection 3

#### **657A.8 Assessment of costs.**

The court may assess the costs and expenses set out in [section 657A.6, subsection 2](#), and may approve receiver's fees to the extent that the fees are not covered by the income from the property. The receiver shall pay the costs and reasonable attorney fees of a plaintiff who requested an inspection pursuant to [section 657A.1A](#) unless an interested party not in default who appeared for the inspection objects to the fees and costs in whole or in part. The court shall determine the merits of such objection. If the court finds that a neighboring landowner has pursued an action pursuant to this chapter in bad faith, the court may assess attorney fees against the neighboring landowner and may bar such neighboring landowner from filing future actions under [this chapter](#). If a foreclosure of the receiver's mortgage pursuant to [chapter 655A](#) is contemplated, the court may retain jurisdiction to determine the amount of attorney fees payable under [section 657A.7, subsection 3](#).

[85 Acts, ch 222, §8; 2019 Acts, ch 105, §13](#)

Referred to in [§657A.10A, 657A.10B](#)  
Section amended

#### **657A.9 Discharge of receiver.**

The receiver may be discharged at any time in the discretion of the court. The receiver shall be discharged when all of the following have occurred:

1. The public nuisance has been abated.
2. The costs of the receivership have been paid.
3. Either all the receiver's notes and mortgages issued pursuant to [this chapter](#) have been paid, or all the holders of the notes and mortgages request in writing that the receiver be discharged.

[85 Acts, ch 222, §9](#)

Referred to in [§657A.10A, 657A.10B](#)

#### **657A.10 Compensation and liability of receiver.**

1. A receiver appointed under [this chapter](#) is entitled to receive fees and commissions in the same manner and to the same extent as receivers appointed in actions to foreclose mortgages.

2. The receiver appointed under [this chapter](#) is not civilly or criminally liable for actions pursuant to [this chapter](#) taken in good faith.

[85 Acts, ch 222, §10](#); [86 Acts, ch 1238, §27](#)

Referred to in [§657A.6A](#), [657A.10A](#), [657A.10B](#)

#### **657A.10A Applicability.**

1. The provisions of [sections 657A.1A through 657A.10](#) shall only apply to cities and counties that have, by ordinance, provided that the provisions shall apply.

2. The provisions of [sections 657A.1A through 657A.10](#) shall not apply to a house, barn, outbuilding, or other building or structure located on agricultural land. For purposes of [this subsection](#), “*agricultural land*” means land suitable for use in farming. For purposes of [this subsection](#), “*farming*” means the cultivation of land for the production of agricultural crops, the production of fruit or other horticultural crops, grazing, or the production of livestock.

[2019 Acts, ch 105, §15, 17](#)

Referred to in [§657A.10B](#)

Former [§657A.10A](#) transferred to [§657A.10B](#) pursuant to directive; [2019 Acts, ch 105, §17](#)

NEW section

#### **657A.10B Petition by city for title to abandoned property.**

1. *a.* In lieu of the procedures in [sections 657A.1A through 657A.10](#) and [657A.10A](#), a city in which a building that has been abandoned for at least six consecutive months is located may petition the court to enter judgment awarding title to the abandoned property to the city. A petition filed under [this section](#) shall include the legal description of the abandoned property. If more than one abandoned building is located on a parcel of real estate, the city may combine the actions into one petition. The owner of the building and grounds, mortgagees of record, lienholders of record, or other known persons who hold an interest in the property shall be named as respondents on the petition.

*b.* The petition shall be filed in the district court of the county in which the property is located. Service on the owner and any other named respondents shall be by personal service or certified mail or, if service cannot be made by either method, by posting the notice in a conspicuous place on the building and by publication in a newspaper of general circulation in the city. The action shall be in equity.

2. Not sooner than sixty days after the filing of the petition, the city may request a hearing on the petition.

3. In determining whether a property has been abandoned, the court shall consider the following for each building that is located on the property and named in the petition and the building grounds:

*a.* Whether any property taxes or special assessments on the property were delinquent at the time the petition was filed.

*b.* Whether any utilities are currently being provided to the property.

*c.* Whether the building is unoccupied by the owner or lessees or licensees of the owner.

*d.* Whether the building meets the city’s housing code as being fit for human habitation, occupancy, or use.

*e.* Whether the building meets the city’s building code as being fit for occupancy or use.

*f.* Whether the building is exposed to the elements such that deterioration of the building is occurring.

*g.* Whether the building is boarded up or otherwise secured from unauthorized entry.

*h.* Past efforts to rehabilitate the building and grounds.

*i.* Whether those claiming an interest in the property have, prior to the filing of the petition, demonstrated a good-faith effort to restore the property to productive use.

*j.* The presence of vermin, accumulation of debris, and uncut vegetation.

*k.* The effort expended by the petitioning city to maintain the building and grounds.

*l.* Past and current compliance with orders of the local housing or building code official.

*m.* Any other evidence the court deems relevant.

4. In lieu of the considerations in [subsection 3](#), if the city can establish to the court’s satisfaction that all parties with an interest in the property have received proper notice and either consented to the entry of an order awarding title to the property to the city or did not

make a good-faith effort to comply with the order of the local housing or building code official within sixty days after the filing of the petition, the court shall enter judgment against the respondents granting the city title to the property.

5. If the court determines that the property has been abandoned or that [subsection 4](#) applies, the court shall enter judgment and order awarding title to the city. The title awarded to the city shall be free and clear of any claims, liens, or encumbrances held by the respondents.

6. If a city files a petition under [subsection 1](#), naming the holder of a tax sale certificate of purchase for the property as a respondent, the city shall also file the petition, along with a verified statement declaring that the property identified in the petition contains an abandoned building, with the county treasurer. Upon receiving the petition and verified statement, the county treasurer shall make an entry in the county system canceling the sale of the property and shall refund the purchase money to the tax sale certificate holder.

[2004 Acts, ch 1165, §10, 11](#)

C2005, §657A.10A

[2010 Acts, ch 1050, §11, 12; 2013 Acts, ch 30, §261; 2015 Acts, ch 136, §50 – 55; 2019 Acts, ch 105, §14, 17](#)

C2020, §657A.10B

Referred to in [§448.13](#)

Section transferred from §657A.10A in Code 2020 pursuant to directive in 2019 Acts, ch 105, §17

Subsection 1, paragraph a amended

#### **657A.10C Petition for injunction.**

1. As an alternative to the remedies under [this chapter](#), a city, or a county if a property that is alleged to be a public nuisance is located outside the limits of a city, may petition the court for an injunction that requires the owner of the property to correct or eliminate the condition or violation causing the public nuisance. Service of the original notice shall be made as provided in [section 657A.2, subsection 1](#).

2. [This section](#) shall not apply to a house, barn, outbuilding, or other building or structure located on agricultural land. For purposes of [this subsection](#), “*agricultural land*” means land suitable for use in farming. For purposes of [this subsection](#), “*farming*” means the cultivation of land for the production of agricultural crops, the production of fruit or other horticultural crops, grazing, or the production of livestock.

[2019 Acts, ch 105, §16](#)

NEW section

#### **657A.11 Jurisdiction — remedies.**

1. An action pursuant to [this chapter](#) is exclusively within the jurisdiction of district judges as provided in [section 602.6202](#).

2. [This chapter](#) does not prevent a person from using other remedies or procedures to enforce building or housing ordinances or to correct or remove public nuisances.

[85 Acts, ch 222, §11](#)

#### **657A.12 Indexing of petition.**

1. When a petition affecting real property is filed by a governmental entity under [this chapter](#), the clerk of the district court shall index the petition pursuant to [section 617.10](#), if the legal description of the affected property is included in or attached to the petition.

2. After filing the petition with the clerk of the district court, the governmental entity shall also file the petition in the office of the county treasurer. The county treasurer shall include a notation of the pendency of the action in the county system, as defined in [section 445.1](#), until the judgment of the court is satisfied or until the action is dismissed. Pursuant to [section 446.7](#), an affected property that is subject to a pending action shall not be offered for sale by the county treasurer at a tax sale.

[2010 Acts, ch 1050, §13; 2016 Acts, ch 1011, §113](#)