

# Senate Amendment 5162

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1 1 Amend Senate File 2297 as follows:  
1 2 ~~#1.~~ By striking everything after the enacting  
1 3 clause and inserting the following:  
1 4 <Section 1. Section 657A.1, subsection 1, Code  
1 5 2007, is amended to read as follows:  
1 6 1. ~~"Abandoned" or "abandonment"~~ "Abandoned  
1 7 building" means ~~that one or more of the following:~~  
1 8 a. That a building has remained vacant and has  
1 9 been in violation of the housing code, building,  
1 10 plumbing, mechanical, or electrical codes of the city  
1 11 in which the property is located or the housing code,  
1 12 building, plumbing, mechanical, or electrical codes  
1 13 applicable in the county in which the property is  
1 14 located if outside the limits of a city for a period  
1 15 of six consecutive months.  
1 16 b. That a building has been declared by a court to  
1 17 be abandoned or in a dangerous or unsafe condition  
1 18 pursuant to section 657A.2 or that a building has been  
1 19 declared by a court to be abandoned pursuant to  
1 20 section 657A.10A.  
1 21 An "abandoned building" includes the real property  
1 22 upon which a building is located.  
1 23 Sec. 2. Section 657A.1, Code 2007, is amended by  
1 24 adding the following new subsection:  
1 25 NEW SUBSECTION. 1A. "Abandoned vacant lot" means  
1 26 a vacant lot that has been declared by a court to be  
1 27 abandoned pursuant to section 657A.10A.  
1 28 Sec. 3. Section 657A.1, Code 2007, is amended by  
1 29 adding the following new subsection:  
1 30 NEW SUBSECTION. 8. "Vacant lot" means a lot or  
1 31 parcel of property that is located within the limits  
1 32 of a city, that contains no buildings or structures,  
1 33 and that is zoned to allow for residential or  
1 34 commercial structures. "Vacant lot" does not include  
1 35 property zoned for residential or commercial use  
1 36 currently in use as farmland.  
1 37 Sec. 4. Section 657A.10A, Code 2007, is amended to  
1 38 read as follows:  
1 39 657A.10A PETITION BY CITY FOR TITLE TO ABANDONED  
1 40 PROPERTY.  
1 41 1. ~~In lieu of the procedures addition to or as an~~  
1 42 ~~alternative to the relief provided under chapter 657,~~  
1 43 ~~chapter 6B, or in sections section 657A.2 through~~  
1 44 ~~657A.10, a city in which an abandoned building or~~  
1 45 ~~abandoned vacant lot is located may petition the court~~  
1 46 ~~to condemn the abandoned building or abandoned vacant~~  
1 47 ~~lot if the property contains a public nuisance as~~  
1 48 ~~provided in this section and enter judgment awarding~~  
1 49 ~~title to the abandoned property to the city for the~~  
1 50 ~~public purpose of disposing of the property under~~  
2 1 ~~section 364.7 by conveying the property to a private~~  
2 2 ~~individual or entity for reuse, demolition and reuse,~~  
2 3 ~~or rehabilitation and reuse, in conformance with any~~  
2 4 ~~applicable city requirements. If more than one~~  
2 5 ~~abandoned building is located on a parcel of real~~  
2 6 ~~estate, the city may combine the actions into one~~  
2 7 ~~petition. Condemnation of an abandoned building or~~  
2 8 ~~abandoned vacant lot for the abatement of a public~~  
2 9 ~~nuisance and for the sale and use of the abandoned~~  
2 10 ~~property shall constitute a public purpose under~~  
2 11 ~~section 6A.4, subsection 6.~~  
2 12 2. a. The owner of the abandoned building and  
2 13 grounds or the abandoned vacant lot, mortgagees of  
2 14 record, lienholders of record, or the county in which  
2 15 the property is located if delinquent property taxes  
2 16 are owing, holders of tax sale certificates, and other  
2 17 known persons who hold an interest in the property  
2 18 shall be named as respondents on the petition.  
2 19 b. The petition shall be filed in the district  
2 20 court of the county in which the property is located.  
2 21 ~~Service on the owner and any other named respondents~~  
2 22 ~~shall be by certified mail and by posting the notice~~  
2 23 ~~in a conspicuous place on the building. The action~~  
2 24 ~~shall be in equity. If more than one abandoned~~

2 25 building is located on a parcel of real estate, the  
2 26 city may combine the actions into one petition.  
2 27 c. The city shall set forth in the petition all of  
2 28 the following:  
2 29 (1) All public nuisance conditions existing on the  
2 30 property.  
2 31 (2) The fair market value of the property in the  
2 32 property's existing condition on the date the petition  
2 33 is filed as determined by an appraisal prepared for  
2 34 the city. The appraisal shall be attached to the  
2 35 petition.  
2 36 (3) The city's anticipated costs of abating each  
2 37 nuisance on the property. Abatement costs may include  
2 38 the city's anticipated costs to remove or remediate  
2 39 any hazardous wastes or materials and any groundwater  
2 40 contamination on the property as required for  
2 41 redevelopment of the property in compliance with any  
2 42 applicable city, state, or federal requirements.  
2 43 (4) Any costs previously incurred by the city to  
2 44 abate a nuisance on the property.  
2 45 (5) The city's anticipated costs to sell and  
2 46 convey the property for reuse, demolition and reuse,  
2 47 or rehabilitation and reuse.  
2 48 (6) The amount of delinquent property taxes or  
2 49 special assessments on the property.  
2 50 (7) The city's anticipated costs of bringing the  
3 1 action including reasonable attorney fees.  
3 2 3. a. Service on the owner and any other named  
3 3 respondents shall be by certified mail. The petition  
3 4 shall be mailed to each respondent at the respondent's  
3 5 last known address as reflected in county records.  
3 6 The city shall also cause the petition to be published  
3 7 once in a newspaper of general circulation in the  
3 8 county within ten days of the petition being filed.  
3 9 Service of the petition shall be deemed complete on  
3 10 the date of publication.  
3 11 b. In lieu of mailing and publishing the petition,  
3 12 the city may cause the petition to be served upon such  
3 13 persons in the manner provided by the Iowa rules of  
3 14 civil procedure for the personal service of original  
3 15 notice.  
3 16 ~~2-~~ 4. ~~Not~~ The city may request a hearing on the  
3 17 petition to be held not sooner than sixty days after  
3 18 the filing of the petition; the city may request a  
3 19 hearing on the petition and not sooner than thirty  
3 20 days after the completion of service. Notice of the  
3 21 hearing shall be provided to all respondents by  
3 22 mailing and publication as provided in subsection 3.  
3 23 Notice of the hearing shall be given not less than  
3 24 thirty days prior to the date of the hearing. The  
3 25 petition may be served, and notice of the hearing may  
3 26 be provided, to the respondent at the same time,  
3 27 provided that the deadlines for service are met.  
3 28 ~~3-~~ 5. a. In determining whether a property  
3 29 public nuisance exists on the property and whether the  
3 30 building or vacant lot has been abandoned, the court  
3 31 shall consider the following ~~for each building that is~~  
3 32 ~~located on the property and named in the petition and~~  
3 33 ~~the building grounds:~~  
3 34 a- (1) Whether any property taxes or special  
3 35 assessments on the property were delinquent at the  
3 36 time the petition was filed.  
3 37 (2) Whether local authorities have received  
3 38 complaints from neighboring landowners regarding the  
3 39 appearance or condition of the property.  
3 40 (3) Whether the condition of the property violates  
3 41 a city ordinance and how long the property has been in  
3 42 violation of the ordinance.  
3 43 (4) Whether conditions exist on the property which  
3 44 create an unreasonable risk to public health or  
3 45 safety.  
3 46 (5) The presence of vermin, accumulation of debris  
3 47 and garbage, and uncut vegetation.  
3 48 (6) The effort expended by the petitioning city to  
3 49 maintain the property.  
3 50 (7) Past and current efforts by the property owner  
4 1 to comply with orders of local government authorities  
4 2 pertaining to the property.  
4 3 (8) Any other evidence the court deems relevant.  
4 4 b. When a court hears a petition related to an  
4 5 alleged abandoned building the court shall consider,

4 6 in addition to the factors provided in paragraph "a",  
4 7 the following:

4 8 ~~b-~~ (1) Whether any utilities are currently being  
4 9 provided to the property.

4 10 ~~c-~~ (2) Whether the building is unoccupied by the  
4 11 owner or lessees or licensees of the owner.

4 12 ~~d-~~ (3) Whether the building meets the city's  
4 13 housing code for being fit for human habitation,  
4 14 occupancy, or use.

4 15 ~~e-~~ (4) Whether the building is exposed to the  
4 16 elements such that deterioration of the building is  
4 17 occurring.

4 18 ~~f-~~ (5) Whether the building is boarded up.

4 19 ~~g-~~ (6) Past efforts to rehabilitate the building  
4 20 and grounds.

4 21 ~~h-~~ The presence of vermin, accumulation of debris,  
4 22 and uncut vegetation.

4 23 ~~i-~~ The effort expended by the petitioning city to  
4 24 maintain the building and grounds.

4 25 ~~j-~~ (7) Past and current ~~compliance~~ efforts by the  
4 26 property owner to comply with orders of the local  
4 27 building or housing official officials or other local  
4 28 government authorities.

4 29 (8) Whether the building meets the city's  
4 30 building, plumbing, mechanical, and electrical codes.

4 31 ~~k-~~ Any other evidence the court deems relevant.

4 32 6. The city shall have the burden of proving the  
4 33 existence of a public nuisance on the property, and  
4 34 that the building or the vacant lot is an abandoned  
4 35 building or abandoned vacant lot as those terms are  
4 36 defined in section 657A.1. A respondent may appear at  
4 37 the hearing and present evidence. The case shall be  
4 38 tried to the court.

4 39 7. If the court determines that a public nuisance  
4 40 exists upon the property and that the property is an  
4 41 abandoned building or an abandoned vacant lot, the  
4 42 court shall enter judgment against the respondents  
4 43 granting the city title to the property and shall also  
4 44 determine an award of damages to be paid to the  
4 45 respondents as just compensation for the taking of the  
4 46 property. However, any amounts specified in  
4 47 subsection 2, paragraph "c", subparagraphs (3) through  
4 48 (7), as determined by the court shall be deducted from  
4 49 such compensation.

4 50 ~~4-~~ 8. In lieu of the considerations in subsection  
5 1 3 a hearing on the petition as provided in subsection  
5 2 4, if the city can establish to the court's  
5 3 satisfaction that all parties with an interest in the  
5 4 property have received proper notice and either have  
5 5 consented to the entry of an order awarding title to  
5 6 the property to the city or did not make a good faith  
5 7 effort to comply with the order of the local housing  
5 8 official within sixty days after the filing of the  
5 9 petition, the court shall enter judgment against the  
5 10 respondents granting the city title to the property  
5 11 and shall determine an award of damages pursuant to  
5 12 the requirements of subsection 7.

5 13 ~~5-~~ 9. If the court determines that the property  
5 14 has been abandoned or that subsection 4 applies, the  
5 15 court shall enter judgment awarding title to the city.  
5 16 The title awarded to the city under this section shall  
5 17 be free and clear of any claims, liens, or  
5 18 encumbrances held by the respondents.

5 19 Sec. 5. NEW SECTION. 657A.10B IMMUNITY FROM  
5 20 LIABILITY == NUISANCE ABATEMENT.

5 21 1. A city shall not be liable for failing to take  
5 22 action to abate a nuisance or failing to petition for  
5 23 title to property under this chapter.

5 24 2. A city shall not be liable for damages  
5 25 resulting from declaring the existence of a nuisance  
5 26 on a property unless it is proven that the declaration  
5 27 was unfounded and made with the intent to damage or  
5 28 injure an owner or an interest holder in the property.

5 29 3. A city shall not be liable for damages to  
5 30 property abutting a public nuisance property or the  
5 31 property of a neighboring landowner caused by the  
5 32 city's attempt to abate the nuisance if the nuisance  
5 33 posed a substantial and imminent risk to public  
5 34 health, safety, or welfare requiring immediate  
5 35 abatement. If such nuisance did not pose a  
5 36 substantial and imminent risk to public health,

5 37 safety, or welfare, a city shall not be held liable  
5 38 for damage to property abutting or in the vicinity of  
5 39 the nuisance property unless it is proven that the  
5 40 city's action to abate the nuisance was in reckless  
5 41 disregard for the safety or welfare of such other  
5 42 property.>

5 43 #2. Title page, by striking line 2 and inserting  
5 44 the following: <abandoned buildings and to abandoned  
5 45 vacant lots within cities by condemnation and  
5 46 providing for payment of just compensation in certain  
5 47 instances.>

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