

By: Dutton

H.B. No. 427

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the remedies available to a person to abate a nuisance
3 in a municipality.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter C, Chapter 125, Civil Practice and
6 Remedies Code, is amended by adding Section 125.048 to read as
7 follows:

8 Sec. 125.048. ADDITIONAL REMEDIES IN MUNICIPALITY: SUIT
9 FOR REMEDIAL ACTION. (a) In addition to the other remedies
10 available under this chapter, a resident of a municipality may
11 bring a suit to require the municipality to take remedial action
12 against a common or public nuisance that is occurring in the
13 municipality. The suit may be brought only in a county in which the
14 nuisance occurs.

15 (b) If the court determines that the alleged nuisance that
16 is the object of the suit is a common or public nuisance and a threat
17 to the public health or welfare of the residents of the
18 municipality, the court may order the municipality to:

19 (1) warn any person who uses or is about to use the
20 premises for the purposes constituting the nuisance that the use
21 constitutes a common or public nuisance;

22 (2) investigate whether the municipality should bring
23 a suit under this subchapter or other law to abate the nuisance;

24 (3) purchase property on which a use that constitutes

1 the common or public nuisance has occurred; or

2 (4) exercise the power of eminent domain to acquire
3 the property on which a use that constitutes the common or public
4 nuisance has occurred.

5 (c) Before ordering relief under Subsection (b)(3) or (4),
6 the court must find that the acquisition of the property by the
7 municipality serves a public purpose of the municipality.

8 SECTION 2. This Act takes effect September 1, 2005.