

By: Leibowitz

H.B. No. 1287

A BILL TO BE ENTITLED

AN ACT

relating to county abatement of a public nuisance.

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

SECTION 1. Section 343.013, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A county may bring suit under this section to prohibit or control access to the premises to prevent a continued or future violation of Section 343.011(c)(1), (8), or (9). The court may grant relief under this subsection only if the county demonstrates that:

(1) the person responsible for causing the public nuisance has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought prohibits or controls access of a person other than the owner; or

(2) the owner of the premises knew about the nuisance and has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought controls access of the owner.

(d) In granting relief under Subsection (c), the court:

(1) may not, in a suit brought under Section 343.011(c)(9), prohibit or control access by the owner or operator of a utility line or utility easement to that utility line or utility easement; and

(2) may not prohibit the owner of the premises from

1 accessing the property but may prohibit a continued or future
2 violation.

3 SECTION 2. Section 343.021, Health and Safety Code, is
4 amended to read as follows:

5 Sec. 343.021. AUTHORITY TO ABATE NUISANCE. A county may
6 abate a nuisance under this chapter by demolition or removal or, in
7 the case of a nuisance under Section 343.011(c)(1), (8), or (9), by
8 prohibition or control of access to the premises, if the county
9 adopts abatement procedures that are consistent with the general
10 purpose of this chapter and that conform to this chapter.

11 SECTION 3. Sections 343.022(a) and (c), Health and Safety
12 Code, are amended to read as follows:

13 (a) The abatement procedures adopted by the commissioners
14 court must be administered by a regularly salaried, full-time
15 county employee, but the prohibition or control of access to the
16 premises to prevent a violation of Section 343.011(c)(1), (8), or
17 (9), or the removal or demolition of the nuisance, may be made by a
18 person authorized by the person administering the abatement
19 program.

20 (c) The notice must state:

21 (1) the specific condition that constitutes a
22 nuisance;

23 (2) that the person receiving notice shall abate the
24 nuisance before the:

25 (A) 31st day after the date on which the notice is
26 served, if the person has not previously received a notice
27 regarding a nuisance on the premises; or

1 (B) 10th business day after the date on which the
2 notice is served, if the person has previously received a notice
3 regarding a nuisance on the premises;

4 (3) that failure to abate the nuisance may result in:

5 (A) abatement by the county;

6 (B) assessment of costs to the person responsible
7 for causing the nuisance when that person can be identified; and

8 (C) a lien against the property on which the
9 nuisance exists, if the person responsible for causing the nuisance
10 has an interest in the property;

11 (4) that the county may prohibit or control access to
12 the premises to prevent a continued or future nuisance described by
13 Section 343.011(c)(1), (8), or (9); and

14 (5) [~~(4)~~] that the person receiving notice is entitled
15 to submit~~[, before the 31st day after the date on which the notice~~
16 ~~is served,~~] a written request for a hearing before the:

17 (A) 31st day after the date on which the notice is
18 served, if the person has not previously received a notice
19 regarding a nuisance on the premises; or

20 (B) 10th business day after the date on which the
21 notice is served, if the person has previously received a notice
22 regarding a nuisance on the premises.

23 SECTION 4. Subchapter C, Chapter 343, Health and Safety
24 Code, is amended by adding Section 343.0235 to read as follows:

25 Sec. 343.0235. USE OF COUNTY FUNDS. A county is entitled to
26 use any money available under other law for a cleanup or remediation
27 of private property to abate a nuisance described by Section

1 343.011(c)(1), (8), or (9).

2 SECTION 5. Section 343.022(c), Health and Safety Code, as
3 amended by this Act, applies only to notice given on or after the
4 effective date of this Act. Notice given before the effective date
5 of this Act is governed by the law as it existed immediately before
6 the effective date of this Act, and the former law is continued in
7 effect for that purpose.

8 SECTION 6. This Act takes effect September 1, 2005.