

By: Leibowitz

H.B. No. 1287

Substitute the following for H.B. No. 1287:

By: Naishtat

C.S.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 Subsection (c) 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 the owner of the premises, or the person responsible for causing the public nuisance, has not responded sufficiently to previous attempts to abate a nuisance on the premises. In a suit brought under Section 343.011(c)(9), the court may not grant relief that prohibits or controls access by the owner or operator of a utility line or utility easement to that utility line or utility easement.

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

Sec. 343.021. AUTHORITY TO ABATE NUISANCE. A county may abate a nuisance under this chapter by demolition, ~~or~~ removal, or prohibition or control of access to the premises if the county adopts abatement procedures that are consistent with the general purpose of this chapter and that conform to this chapter.

SECTION 3. Sections 343.022(a) and (c), Health and Safety

1 Code, are amended to read as follows:

2 (a) The abatement procedures adopted by the commissioners  
3 court must be administered by a regularly salaried, full-time  
4 county employee, but the prohibition or control of access to the  
5 premises, or the removal or demolition of the nuisance, may be made  
6 by a person authorized by the person administering the abatement  
7 program.

8 (c) The notice must state:

9 (1) the specific condition that constitutes a  
10 nuisance;

11 (2) that the person receiving notice shall abate the  
12 nuisance before the:

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

16 (B) 10th day after the date on which the notice is  
17 served, if the person has previously received a notice regarding a  
18 nuisance on the premises;

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

20 (A) abatement by the county;

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

23 (C) a lien against the property on which the  
24 nuisance exists, if the person responsible for causing the nuisance  
25 has an interest in the property;

26 (4) that the county may prohibit or control access to  
27 the premises to prevent a continued or future nuisance; and

1           (5) [~~(4)~~] that the person receiving notice is entitled  
2 to submit[, ~~before the 31st day after the date on which the notice~~  
3 ~~is served,~~] a written request for a hearing before the:

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

7                   (B) 10th day after the date on which the notice is  
8 served, if the person has previously received a notice regarding a  
9 nuisance on the premises.

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

12           Sec. 343.0235. USE OF COUNTY FUNDS. A county is entitled to  
13 use any money available under other law for a cleanup or remediation  
14 of private property to abate a nuisance.

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

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