

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 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.

SECTION 2. Section 343.022(c), Health and Safety Code, is amended to read as follows:

(c) The notice must state:

(1) the specific condition that constitutes a nuisance;

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

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

(B) 10th day after the date on which the notice is served, if the person has previously received a notice regarding a

1 nuisance on the premises;

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

3 (A) abatement by the county;

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

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

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

11 (5) [~~(4)~~] that the person receiving notice is entitled
12 to submit [~~, before the 31st day after the date on which the notice~~
13 ~~is served,~~] a written request for a hearing before the:

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

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

20 SECTION 3. Subchapter C, Chapter 343, Health and Safety
21 Code, is amended by adding Section 343.0235 to read as follows:

22 Sec. 343.0235. COST RECOVERY. If the cost to the county to
23 abate the nuisance exceeds the assessed value of the property, the
24 county is eligible to receive funds to recover the cost from any
25 state program for cleanup or remediation of private property,
26 including any accounts or funds to dispose of solid waste under
27 Chapters 361 and 364.

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

7 SECTION 5. This Act takes effect September 1, 2005.