

1-1 By: Leibowitz (Senate Sponsor - Madla) H.B. No. 1287
1-2 (In the Senate - Received from the House April 22, 2005;
1-3 April 25, 2005, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 18, 2005, reported favorably by
1-5 the following vote: Yeas 4, Nays 0; May 18, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to county abatement of a public nuisance.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 343.013, Health and Safety Code, is
1-11 amended by adding Subsections (c) and (d) to read as follows:

1-12 (c) A county may bring suit under this section to prohibit
1-13 or control access to the premises to prevent a continued or future
1-14 violation of Section 343.011(c)(1), (8), or (9). The court may
1-15 grant relief under this subsection only if the county demonstrates
1-16 that:

1-17 (1) the person responsible for causing the public
1-18 nuisance has not responded sufficiently to previous attempts to
1-19 abate a nuisance on the premises, if the relief sought prohibits or
1-20 controls access of a person other than the owner; or

1-21 (2) the owner of the premises knew about the nuisance
1-22 and has not responded sufficiently to previous attempts to abate a
1-23 nuisance on the premises, if the relief sought controls access of
1-24 the owner.

1-25 (d) In granting relief under Subsection (c), the court:

1-26 (1) may not, in a suit brought under Section
1-27 343.011(c)(9), prohibit or control access by the owner or operator
1-28 of a utility line or utility easement to that utility line or
1-29 utility easement; and

1-30 (2) may not prohibit the owner of the premises from
1-31 accessing the property but may prohibit a continued or future
1-32 violation.

1-33 SECTION 2. Section 343.021, Health and Safety Code, is
1-34 amended to read as follows:

1-35 Sec. 343.021. AUTHORITY TO ABATE NUISANCE. A county may
1-36 abate a nuisance under this chapter by demolition or removal or, in
1-37 the case of a nuisance under Section 343.011(c)(1), (8), or (9), by
1-38 prohibition or control of access to the premises, if the county
1-39 adopts abatement procedures that are consistent with the general
1-40 purpose of this chapter and that conform to this chapter.

1-41 SECTION 3. Sections 343.022(a) and (c), Health and Safety
1-42 Code, are amended to read as follows:

1-43 (a) The abatement procedures adopted by the commissioners
1-44 court must be administered by a regularly salaried, full-time
1-45 county employee, but the prohibition or control of access to the
1-46 premises to prevent a violation of Section 343.011(c)(1), (8), or
1-47 (9), or the removal or demolition of the nuisance, may be made by a
1-48 person authorized by the person administering the abatement
1-49 program.

1-50 (c) The notice must state:

1-51 (1) the specific condition that constitutes a
1-52 nuisance;

1-53 (2) that the person receiving notice shall abate the
1-54 nuisance before the:

1-55 (A) 31st day after the date on which the notice is
1-56 served, if the person has not previously received a notice
1-57 regarding a nuisance on the premises; or

1-58 (B) 10th business day after the date on which the
1-59 notice is served, if the person has previously received a notice
1-60 regarding a nuisance on the premises;

1-61 (3) that failure to abate the nuisance may result in:

1-62 (A) abatement by the county;

1-63 (B) assessment of costs to the person responsible
1-64 for causing the nuisance when that person can be identified; and

2-1 (C) a lien against the property on which the
2-2 nuisance exists, if the person responsible for causing the nuisance
2-3 has an interest in the property;

2-4 (4) that the county may prohibit or control access to
2-5 the premises to prevent a continued or future nuisance described by
2-6 Section 343.011(c)(1), (8), or (9); and

2-7 (5) [~~4~~] that the person receiving notice is entitled
2-8 to submit[, ~~before the 31st day after the date on which the notice~~
2-9 ~~is served,~~] a written request for a hearing before the:

2-10 (A) 31st day after the date on which the notice is
2-11 served, if the person has not previously received a notice
2-12 regarding a nuisance on the premises; or

2-13 (B) 10th business day after the date on which the
2-14 notice is served, if the person has previously received a notice
2-15 regarding a nuisance on the premises.

2-16 SECTION 4. Subchapter C, Chapter 343, Health and Safety
2-17 Code, is amended by adding Section 343.0235 to read as follows:

2-18 Sec. 343.0235. USE OF COUNTY FUNDS. A county is entitled to
2-19 use any money available under other law for a cleanup or remediation
2-20 of private property to abate a nuisance described by Section
2-21 343.011(c)(1), (8), or (9).

2-22 SECTION 5. Section 343.022(c), Health and Safety Code, as
2-23 amended by this Act, applies only to notice given on or after the
2-24 effective date of this Act. Notice given before the effective date
2-25 of this Act is governed by the law as it existed immediately before
2-26 the effective date of this Act, and the former law is continued in
2-27 effect for that purpose.

2-28 SECTION 6. This Act takes effect September 1, 2005.

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