

By: Hochberg, Woolley

H.B. No. 1551

Substitute the following for H.B. No. 1551:

By: Murphy

C.S.H.B. No. 1551

A BILL TO BE ENTITLED

AN ACT

relating to remedies for common nuisances.

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

SECTION 1. Section 125.002(e), Civil Practice and Remedies Code, is amended to read as follows:

(e) If judgment is in favor of the petitioner, the court shall grant an injunction ordering the defendant to abate the nuisance and enjoining the defendant from maintaining or participating in the nuisance and may include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance. If the petitioner brings an action in rem, the judgment is a judgment in rem against the property as well as a judgment against the defendant. The judgment must order that the place where the nuisance exists be closed for one year after the date of judgment ~~[unless the defendant or the real property owner, lessee, or tenant of the property posts bond]~~.

SECTION 2. Section 125.045, Civil Practice and Remedies Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) If, after notice and hearing on a request by a petitioner for a temporary injunction, a court determines that the petitioner is likely to succeed on the merits in a suit brought under Section 125.002, the court:

(1) may order a landlord to terminate a tenant's lease,

1 if the landlord and the tenant are parties to the suit;

2 (2) may include in its order reasonable requirements  
3 to prevent the use or maintenance of the place as a nuisance; and

4 (3) shall require that the defendant execute a bond.

5 (a-1) The bond must:

6 (1) be payable to the state at the county seat of the  
7 county in which the place is located;

8 (2) be in the amount set by the court, but not less  
9 than \$5,000 or more than \$10,000;

10 (3) have sufficient sureties approved by the court;  
11 and

12 (4) be conditioned that the defendant will not  
13 knowingly maintain a common nuisance to exist at the place.

14 (b) If, on a motion of the petitioner for the temporary  
15 injunction, a court determines that a condition of the injunctive  
16 order is violated, the court ~~[any party to a court case fails to~~  
17 ~~cease and desist creating and maintaining a common nuisance within~~  
18 ~~the time allowed by the court, a political subdivision]~~ may:

19 (1) order a political subdivision to discontinue the  
20 furnishing of utility services ~~[by the political subdivision]~~ to  
21 the place at which the nuisance exists;

22 (2) prohibit the furnishing of utility service to the  
23 place by any public utility holding a franchise to use the streets  
24 and alleys of the political subdivision;

25 (3) revoke the certificate of occupancy of the place;

26 (4) prohibit the use of city streets, alleys, and  
27 other public ways for access to the place during the existence of

1 the nuisance or in furtherance of the nuisance; ~~[and]~~

2 (5) limit the hours of operation of a place, to the  
3 extent that the hours of operation are not otherwise specified by  
4 law; or

5 (6) order ~~[use]~~ any other legal remedy available under  
6 the laws of the state.

7 SECTION 3. Section 125.002(f), Civil Practice and Remedies  
8 Code, is repealed.

9 SECTION 4. The change in law made by this Act applies only  
10 to a cause of action that accrues on or after the effective date of  
11 this Act. A cause of action that accrues before the effective date  
12 of this Act is governed by the law in effect immediately before the  
13 effective date of this Act, and that law is continued in effect for  
14 that purpose.

15 SECTION 5. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2007.