

By: Hochberg

H.B. No. 1551

A BILL TO BE ENTITLED

AN ACT

relating to judgments and remedies for common nuisances.

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

SECTION 1. Section 125.002, Civil Practice and Remedies Code, is amended by amending Subsection (e) and deleting Subsection (f) 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]~~.

~~[(f) The bond must:~~

~~(1) be payable to the state at the county seat of the county in which the nuisance exists,~~

~~(2) be in the penal sum of \$10,000,~~

~~(3) have sufficient sureties approved by the court,~~

~~and~~

~~(4) be conditioned that the property will not be used~~

1 ~~or permitted to be used for prostitution or gambling in violation of~~  
2 ~~the Penal Code or for delivery, possession, manufacture, or use of a~~  
3 ~~controlled substance in violation of Chapter 481, Health and Safety~~  
4 ~~Code.]~~

5 SECTION 2. Section 125.045, Civil Practice and Remedies  
6 Code, is amended by amending Subsection (a) and Subsection (b) to  
7 read as follows:

8 Sec. 125.045. REMEDIES. (a) If, after notice and hearing on  
9 a request by a petitioner for a temporary injunction, a court  
10 determines that the petitioner is likely to succeed on the merits in  
11 a suit brought under Section 125.002, the court:

12 (1) may order a landlord to terminate a tenant's lease,  
13 if the landlord and the tenant are parties to the suit;

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

16 (3) shall require that the defendant execute a bond.  
17 The bond must:

18 (A) [1] be payable to the state at the county  
19 seat of the county in which the place is located;

20 (B) [2] be in the amount set by the court, but not  
21 less than \$5,000 or more than \$10,000;

22 (C) [3] have sufficient sureties approved by the  
23 court; and

24 (D) [4] be conditioned that the defendant will  
25 not knowingly maintain a common nuisance to exist at the place.

26 (b) If, after notice and hearing on a request by a  
27 petitioner for a temporary injunction, a court determines that a

1 condition of the injunctive order entered under this subchapter is  
2 violated, the district, county, or city attorney of the county in  
3 which the property is located, or attorney general [~~If any party to~~  
4 ~~a court case fails to cease and desist creating and maintaining a~~  
5 ~~common nuisance within the time allowed by the court, a political~~  
6 ~~subdivision~~] may:

7 (1) discontinue the furnishing of utility services by  
8 the political subdivision to the place at which the nuisance  
9 exists;

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

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

14 (4) prohibit the use of city streets, alleys, and  
15 other public ways for access to the place during the existence of  
16 the nuisance or in furtherance of the nuisance; and

17 (5) use any other legal remedy available under the  
18 laws of the state.

19 SECTION 3. The change in law made by this Act applies only  
20 to a cause of action that accrues on or after the effective date of  
21 this Act. A cause of action that accrues before the effective date  
22 of this Act is governed by the law in effect at the time the cause of  
23 action accrued, and that law is continued in effect for that  
24 purpose.

25 SECTION 4. This Act takes effect immediately if it receives  
26 a vote of two-thirds of all the members elected to each house, as  
27 provided by Section 39, Article III, Texas Constitution. If this

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- 1 Act does not receive the vote necessary for immediate effect, this
- 2 Act takes effect September 1, 2007.