

By: Hochberg, Woolley, Bohac H.B. No. 1551
(Senate Sponsor - West)
(In the Senate - Received from the House April 16, 2007;
April 19, 2007, read first time and referred to Committee on
Intergovernmental Relations; May 16, 2007, reported adversely,
with favorable Committee Substitute by the following vote: Yeas 3,
Nays 0; May 16, 2007, sent to printer.)

COMMITTEE SUBSTITUTE FOR H.B. No. 1551 By: West

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 include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance; and

(2) shall require that the defendant execute a bond.

(a-1) The bond must:

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

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

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

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

(b) If, after an entry of a temporary or permanent injunction, a court determines that a condition of the injunctive order is violated, the court ~~[any party to a court case fails to cease and desist creating and maintaining a common nuisance within the time allowed by the court, a political subdivision]~~ may:

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

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

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

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

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

(6) order a landlord to terminate a tenant's lease if:

2-1 (A) the landlord and the tenant are parties to
2-2 the suit; and

2-3 (B) the tenant has violated a condition of the
2-4 injunctive order; or

2-5 (7) order ~~use~~ any other legal remedy available under
2-6 the laws of the state.

2-7 SECTION 3. Section 125.002(f), Civil Practice and Remedies
2-8 Code, is repealed.

2-9 SECTION 4. The change in law made by this Act applies only
2-10 to a cause of action that accrues on or after the effective date of
2-11 this Act. A cause of action that accrues before the effective date
2-12 of this Act is governed by the law in effect immediately before the
2-13 effective date of this Act, and that law is continued in effect for
2-14 that purpose.

2-15 SECTION 5. This Act takes effect immediately if it receives
2-16 a vote of two-thirds of all the members elected to each house, as
2-17 provided by Section 39, Article III, Texas Constitution. If this
2-18 Act does not receive the vote necessary for immediate effect, this
2-19 Act takes effect September 1, 2007.

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