

SENATE AMENDMENTS

2nd Printing

By: Hochberg, Woolley, Bohac

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.

ADOPTED

MAY 23 2007

Atty. Gen.
Secretary of the Senate

By: WA

H.B. No. 1551

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

By: WA

C.S. H.B. No. 1551

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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

1 to prevent the use or maintenance of the place as a nuisance; and

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

3 (a-1) The bond must:

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

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

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

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

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

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

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

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

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

27 (5) limit the hours of operation of the place, to the

1 extent that the hours of operation are not otherwise specified by
2 law;

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

4 (A) the landlord and the tenant are parties to
5 the suit; and

6 (B) the tenant has violated a condition of the
7 injunctive order; or

8 (7) order ~~use~~ any other legal remedy available under
9 the laws of the state.

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11 Code, is repealed.

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 15, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1551 by Hochberg (Relating to remedies for common nuisances.), **Committee Report**
2nd House, Substituted

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 8, 2007

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1551 by Hochberg (Relating to remedies for common nuisances.), **As Engrossed**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB

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1 of 1

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 30, 2007

TO: Honorable Kevin Bailey, Chair, House Committee on Urban Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1551 by Hochberg (Relating to remedies for common nuisances.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, DB

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 26, 2007

TO: Honorable Kevin Bailey, Chair, House Committee on Urban Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1551 by Hochberg (Relating to judgments and remedies for common nuisances.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would require a property that has been deemed a nuisance by judgment be closed for one year after the date the judgment is issued. The bill also would permit the attorney general, district, and county or city attorney to take certain actions if a temporary injunction is violated. The Office of the Attorney General's Criminal Law Enforcement Division handles civil nuisance abatement and anticipates any additional work resulting from the passage of the bill could be absorbed within existing resources.

The bill would take effect immediately if it receives two-thirds vote of all members elected to each chamber. If it does not receive the required vote, the bill would take effect September 1, 2007.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, DB, MN, SD

