

By: Leibowitz

H.B. No. 459

A BILL TO BE ENTITLED

AN ACT

1
2 relating to county abatement of certain unsafe buildings that are a
3 public nuisance.

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

5 SECTION 1. Section 343.002(1), Health and Safety Code, is
6 amended to read as follows:

7 (1) "Abate" means to eliminate or remedy:

8 (A) by removal, repair, rehabilitation, or
9 demolition;

10 (B) in the case of a nuisance under Section
11 343.011(c)(1), (5), (8), or (9), by prohibition or control of
12 access; and

13 (C) in the case of a nuisance under Section
14 343.011(c)(11), by removal, remediation, storage, transportation,
15 disposal, or other means of waste management authorized by Chapter
16 361.

17 SECTION 2. Section 343.013(c), Health and Safety Code, is
18 amended to read as follows:

19 (c) A county may bring suit under this section to prohibit
20 or control access to the premises to prevent a continued or future
21 violation of Section 343.011(c)(1), (5), (6), (9), or (10). The
22 court may grant relief under this subsection only if the county
23 demonstrates that:

24 (1) the person responsible for causing the public

1 nuisance has not responded sufficiently to previous attempts to
2 abate a nuisance on the premises, if the relief sought prohibits or
3 controls access of a person other than the owner; or

4 (2) the owner of the premises knew about the nuisance
5 and has not responded sufficiently to previous attempts to abate a
6 nuisance on the premises, if the relief sought controls access of
7 the owner.

8 SECTION 3. Section 343.021, Health and Safety Code, as
9 amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the
10 80th Legislature, Regular Session, 2007, is reenacted and amended
11 to read as follows:

12 Sec. 343.021. AUTHORITY TO ABATE NUISANCE. If a county
13 adopts abatement procedures that are consistent with the general
14 purpose of this chapter and that conform to this chapter, the county
15 may abate a nuisance under this chapter:

16 (1) by demolition or removal;

17 (2) in the case of a nuisance under Section
18 343.011(c)(1), (5), (9), or (10), by prohibiting or controlling
19 access to the premises;

20 (3) in the case of a nuisance under Section
21 343.011(c)(6), by:

22 (A) prohibiting or controlling access to the
23 premises and installing a cover that cannot be opened by a child
24 over the entire swimming pool; or

25 (B) draining and filling the swimming pool; or

26 (4) in the case of a nuisance under Section
27 343.011(c)(11), by removal, remediation, storage, transportation,

1 disposal, or other means of waste management authorized under
2 Chapter 361.

3 SECTION 4. Section 343.022(a), Health and Safety Code, as
4 amended by Chapters 388 (S.B. 680) and 1366 (H.B. 3581), Acts of the
5 80th Legislature, Regular Session, 2007, is reenacted and amended
6 to read as follows:

7 (a) The abatement procedures adopted by the commissioners
8 court must be administered by a regularly salaried, full-time
9 county employee. A person authorized by the person administering
10 the abatement program may administer:

11 (1) the prohibition or control of access to the
12 premises to prevent a violation of Section 343.011(c)(1), (5), (6),
13 (9), or (10);

14 (2) the removal or demolition of the nuisance; and

15 (3) the abatement of a nuisance described by Section
16 343.011(c)(11).

17 SECTION 5. Section 343.022(c), Health and Safety Code, is
18 amended to read as follows:

19 (c) The notice must state:

20 (1) the specific condition that constitutes a
21 nuisance;

22 (2) that the person receiving notice shall abate the
23 nuisance before the:

24 (A) 31st day after the date on which the notice is
25 served, if the person has not previously received a notice
26 regarding a nuisance on the premises; or

27 (B) 10th business day after the date on which the

1 notice is served, if the person has previously received a notice
2 regarding a nuisance on the premises;

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

4 (A) abatement by the county;

5 (B) assessment of costs to the person responsible
6 for causing the nuisance when that person can be identified; and

7 (C) a lien against the property on which the
8 nuisance exists, if the person responsible for causing the nuisance
9 has an interest in the property;

10 (4) that the county may prohibit or control access to
11 the premises to prevent a continued or future nuisance described by
12 Section 343.011(c)(1), (5), (6), (9), or (10); and

13 (5) that the person receiving notice is entitled to
14 submit a written request for a hearing before the:

15 (A) 31st day after the date on which the notice is
16 served, if the person has not previously received a notice
17 regarding a nuisance on the premises; or

18 (B) 10th business day after the date on which the
19 notice is served, if the person has previously received a notice
20 regarding a nuisance on the premises.

21 SECTION 6. Section 343.0235, Health and Safety Code, is
22 amended to read as follows:

23 Sec. 343.0235. USE OF COUNTY FUNDS. A county is entitled to
24 use any money available under other law for a cleanup or remediation
25 of private property to abate a nuisance described by Section
26 343.011(c)(1), (5), (9), or (10).

27 SECTION 7. This Act takes effect September 1, 2009.