

By: Farias

H.B. No. 2438

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a county to assess the costs of abatement of a nuisance on real property against certain persons.

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

SECTION 1. Section 343.022(c), Health and Safety Code, is amended to read as follows:

(c) The notice must state:

(1) the specific condition that constitutes a nuisance;

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

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

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

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

(A) abatement by the county;

(B) assessment of costs to the person receiving the notice [~~responsible for causing the nuisance when that person can be identified~~]; and

(C) a lien against the property on which the nuisance exists [~~, if the person responsible for causing the~~

1 ~~nuisance has an interest in the property]~~;

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

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

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

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

13 SECTION 2. Section 343.023, Health and Safety Code, is  
14 amended by amending Subsection (a) and adding Subsection (g) to  
15 read as follows:

16 (a) A county may:

17 (1) assess to a person receiving notice under Section  
18 343.022:

19 (A) the cost of abating the nuisance, including  
20 management, remediation, storage, transportation, and disposal  
21 costs, and damages and other expenses incurred by the county;

22 (B) the cost of legal notification by  
23 publication; and

24 (C) an administrative fee of not more than \$100  
25 [~~on the person receiving notice under Section 343.022~~]; or

26 (2) by resolution or order, assess against the  
27 property on which the nuisance exists:

- 1 (A) the cost of abating the nuisance;  
2 (B) the cost of legal notification by  
3 publication; and  
4 (C) an administrative fee of not more than \$100  
5 ~~[against the property on which the nuisance exists]~~.

6 (g) The county may file a civil action in district court to  
7 recover the costs and fees assessed against a person under this  
8 section and interest on the unpaid costs and fees. The court may  
9 award court costs and reasonable attorney's fees to the prevailing  
10 party.

11 SECTION 3. (a) Section 343.022(c), Health and Safety Code,  
12 as amended by this Act, applies only to a notice given on or after  
13 the effective date of this Act. A notice given before the effective  
14 date of this Act is governed by the law as it existed immediately  
15 before the effective date of this Act, and the former law is  
16 continued in effect for that purpose.

17 (b) Section 343.023, Health and Safety Code, as amended by  
18 this Act, applies only to an assessment of costs for which notice  
19 was given on or after the effective date of this Act. An assessment  
20 of costs for which notice was given before the effective date of  
21 this Act is governed by the law as it existed immediately before the  
22 effective date of this Act, and the former law is continued in  
23 effect for that purpose.

24 SECTION 4. This Act takes effect September 1, 2013.