

BILL ANALYSIS

Senate Research Center
80R12286 AJA-F

H.B. 1551
By: Hochberg et al. (West)
Intergovernmental Relations
5/8/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law allows a bond to be posted that permits a property to remain open or a business to continue operating after the location has been cited as a public nuisance by law enforcement and after a court action has been taken against the owners of such property. S.B. 1010, 78th Legislature, Regular Session, 2003, incorporated previously separated statutes addressing common and public nuisances into Chapter 125 (Common and Public Nuisances), Civil Practice and Remedies Code. These laws are used by local governments to address locations where owners, landlords, and property managers are failing to take the necessary steps within their powers to prevent activities such as gambling, prostitution, and illegal drug use from occurring on their properties. This section of law was again addressed during the 79th Legislature, Regular Session, 2005.

H.B. 1551 continues to strengthen the provisions made in Chapter 125, Civil Practices and Remedies Code, by eliminating the ability of a defendant to continue maintaining a public nuisance after the defendant has been sanctioned by the courts. This bill provides jurisdictions further means by which to abate the occurrence of illegal activities at certain locations including multi-family residential sites, hotels, motels, and other businesses where such illegal activities may occur.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 125.002(e), Civil Practice and Remedies Code, to delete existing text providing an exception for defendants or real property owners, lessees, or tenants of the property who post bond from the requirement that the judgment of a suit to enjoin and abate a common nuisance order that the place where the nuisance exists be closed for one year after the date of the judgment.

SECTION 2. Amends Section 125.045, Civil Practice and Remedies Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

(a) Authorizes the court, 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 (Suit to Abate Common Nuisance; Bond), to order a landlord to terminate a tenant's lease if the landlord and the tenant are parties to the suit and to include in its order reasonable requirements to prevent the use or maintenance of the place as a nuisance. Makes nonsubstantive changes.

(a-1) Creates this subsection from existing text.

(b) Authorizes the court, if, on a motion of the petitioner for the temporary injunction, a court determines that a condition of the injunctive order is violated, rather than authorizing a political subdivision, if any party to a court case fails to cease and desist creating and maintaining a common nuisance within the time allowed by the court, to order a political subdivision to discontinue the furnishing of utility services to the place at which the nuisance exists, to 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, to revoke the certificate of occupancy of the place, to 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 to order, rather than to use, any other legal remedy available under the laws of the state. Authorizes the court, if, on a motion of the petitioner for the temporary injunction, a court determines that a condition of the injunctive order is violated, to limit the hours of operation of a place, to the extent that the hours of operation are not otherwise specified by law. Makes nonsubstantive changes.

SECTION 3. Repealer: Section 125.002(f) (regarding a bond related to a suit to abate a common nuisance), Civil Practice and Remedies Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: upon passage or September 1, 2007.