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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Perry) recommended the following:

Senate Amendment (with title amendment)

Between lines 17 and 18

insert:

Section 1. Section 60.05, Florida Statutes, is amended to read:

60.05 Abatement of nuisances.—

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of



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11 the state on his or her relation to enjoin the nuisance, the
12 person or persons maintaining it, and the owner or agent of the
13 building or ground on which the nuisance exists.

14 (2) The court may allow a temporary injunction without bond
15 on proper proof being made. If it appears by evidence or
16 affidavit that a temporary injunction should issue, the court,
17 pending the determination on final hearing, may enjoin any of
18 the following:

19 (a) The maintaining of a nuisance.†

20 (b) The operating and maintaining of the place or premises
21 where the nuisance is maintained.†

22 (c) The owner or agent of the building or ground upon which
23 the nuisance exists.†

24 (d) The conduct, operation, or maintenance of any business
25 or activity operated or maintained in the building or on the
26 premises in connection with or incident to the maintenance of
27 the nuisance.

28
29 The injunction shall specify the activities enjoined and shall
30 not preclude the operation of any lawful business not conducive
31 to the maintenance of the nuisance complained of.

32 (3) (a) The defendant shall be given written notice to abate
33 the nuisance within 10 days after the issuance of such notice ~~at~~
34 ~~least 3 days' notice in writing shall be given defendant of the~~
35 ~~time and place of application for the temporary injunction. The~~
36 notice must inform the defendant that an application for
37 temporary injunction may be filed if the nuisance is not abated.
38 If the nuisance is not timely abated, the defendant must be
39 given a second written notice that informs the defendant that an



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40 application for a temporary injunction will be filed if the
41 nuisance is not abated within 15 days after the end of the
42 initial 10-day period. This notice also must provide the
43 location where the application will be filed and the time that
44 it will be filed. If the nuisance is not timely abated as
45 provided in the second notice, the application for the temporary
46 injunction must be filed as indicated in the notice.

47 (b) In addition to the information provided in paragraph
48 (a), each notice must:

49 1. If applicable, describe the building, booth, tent, or
50 place that is declared a nuisance;

51 2. State the activities that led to the nuisance being
52 declared;

53 3. State the actions necessary to abate the nuisance; and

54 4. State that costs will be assessed if abatement of the
55 nuisance is not completed and if there is a determination by the
56 court that such nuisance exists.

57 (c) The notices provided in this subsection must be sent by
58 personal service to the owner at his or her address as it
59 appears on the latest tax assessment roll or to the tenant of
60 such address. If an address is not found for the owner, the
61 notices must be sent to the location of the declared nuisance
62 and displayed prominently and conspicuously at such location.

63 (d) If a nuisance presents a danger of immediate and
64 irreparable injury to a person or to the safety of a community,
65 the notice requirements under paragraph (a) are waived, and only
66 one notice is required, which must inform the defendant that the
67 application for a temporary injunction will be filed if the
68 nuisance is not abated within a designated timeframe of between



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69 24 and 72 hours. The notice also must identify the location
70 where the application will be filed and time that it will be
71 filed.

72 (4)~~(3)~~ Evidence of the general reputation of the alleged
73 nuisance and place is admissible to prove the existence of the
74 nuisance. No action filed by a citizen shall be dismissed unless
75 the court is satisfied that it should be dismissed. Otherwise
76 the action shall continue and the state attorney notified to
77 proceed with it. If the action is brought by a citizen and the
78 court finds that there was no reasonable ground for the action,
79 the costs shall be taxed against the citizen.

80 (5)~~(4)~~ On trial if the existence of a nuisance is shown,
81 the court shall issue a permanent injunction and order the costs
82 to be paid by the persons establishing or maintaining the
83 nuisance and shall adjudge that the costs are a lien on all
84 personal property found in the place of the nuisance and on the
85 failure of the property to bring enough to pay the costs, then
86 on the real estate occupied by the nuisance. A No lien may not
87 ~~shall~~ attach to the real estate of any other than said persons
88 unless 15 ~~5~~ days' written notice has been given to the owner or
89 his or her agent who fails to begin to abate the nuisance within
90 the 15-day period ~~said 5 days~~. In a proceeding abating a
91 nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has
92 been convicted of an offense under chapter 893 or s. 796.07, the
93 court may order the tenant to vacate the property within 72
94 hours if the tenant and owner of the premises are parties to the
95 nuisance abatement action and the order will lead to the
96 abatement of the nuisance.

97 (6)~~(5)~~ If the action was brought by the Attorney General, a



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98 state attorney, or any other officer or agency of state
99 government; if the court finds either before or after trial that
100 there was no reasonable ground for the action; and if judgment
101 is rendered for the defendant, the costs and reasonable
102 attorney's fees shall be taxed against the state.

103
104 ===== T I T L E A M E N D M E N T =====

105 And the title is amended as follows:

106 Between lines 2 and 3

107 insert:

108 60.05, F.S.; revising notice requirements for the
109 filing of temporary injunctions relating to the
110 enjoinment of certain nuisances; extending the period
111 of notice before a lien may attach to certain real
112 estate; amending s.