

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 1343](#)

**TITLE:** Fines for Public Nuisance Abatement

**SPONSOR(S):** Booth, Yarkosky

**COMPANION BILL:** [CS/SB 1022](#) (Wright)

**LINKED BILLS:** None

**RELATED BILLS:** None

### Committee References

[Intergovernmental Affairs](#)

16 Y, 0 N, As CS



[Civil Justice & Claims](#)



[State Affairs](#)

## SUMMARY

### Effect of the Bill:

The bill revises the authorized contents of county or municipal ordinances concerning public nuisances to:

- Allow for a fine of up to \$500 a day if the nuisance is not abated within one year;
- Removes the \$15,000 limit on the total value of fines that may be imposed;
- Authorize local governments to include the time or labor of legal assistants when calculating attorney fees; and
- Revise procedure for foreclosure on liens to allow foreclosure if the lien is unpaid in three months and to require foreclosure if the nuisance is not abated within two years.

### Fiscal or Economic Impact:

The bill may have a positive fiscal impact on local government revenues to the extent those local governments collect increased fines.

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## ANALYSIS

### EFFECT OF THE BILL:

The bill increases the maximum fine a county or municipality may assess for a [public nuisance](#) activity to \$500 per day if the activity is not [abated](#) within one year and requires the [nuisance abatement board](#) to consider the gravity of the public nuisance and any corrective actions taken when assessing the fine. The bill removes a \$15,000 limit on the total value of fines that may be imposed. (Section [1](#))

The bill provides that when awarding attorney fees, the nuisance abatement board must consider the time and labor of legal assistants who contributed to the case. The bill defines a legal assistant as a person who engages in legal research and case development or planning under the supervision and direction of a licensed attorney. (Section [1](#))

The bill provides that the nuisance abatement board retains jurisdiction over a place declared to be a nuisance until the public nuisance is abated. (Section [1](#))

The bill revises the procedure for foreclosing on a lien to allow foreclosure if the lien remains unpaid for three months after the lien is filed and to require foreclosure if the nuisance activity is unabated after two years. (Section [1](#))

The bill has an effective date of July 1, 2025. (Section [2](#))

**STORAGE NAME:** h1343a.IAS

**DATE:** 3/20/2025

## FISCAL OR ECONOMIC IMPACT:

### LOCAL GOVERNMENT:

The bill may have a positive fiscal impact on local government revenues to the extent those local governments collect increased fines.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Public Nuisance

A nuisance is an activity arising from a person's unreasonable, unwarranted, or unlawful use of his or her own property in a way that injures the rights of another or the public and produces such material annoyance, inconvenience, and discomfort that the law presumes resulting damage.<sup>1</sup> A nuisance may also be something that annoys and disturbs a person in possession of his or her property, making its ordinary use or occupation physically uncomfortable.<sup>2</sup>

A nuisance is either private, affecting an individual or a limited number of individuals, or public, violating public rights, subverting public order, decency, and morals, or generally inconveniencing the public.<sup>3</sup> The Legislature has broad discretion to designate a particular activity a public nuisance, and the state, through its police power, has the authority to abate and enjoin a public nuisance.<sup>4</sup>

A place or premises may be declared a public nuisance if it has been used:

- On more than two occasions within a six-month period for:
  - Prostitution;
  - The unlawful sale, delivery, manufacture, or cultivation of any control substance;
  - Dealing in stolen property; or
  - Any combination of murder, attempted felony murder, aggravated battery with a deadly weapon, or to aggravated assault with a deadly weapon without intent to kill;
- On two or more occasions within a six-month period for violations of the Florida Drug and Cosmetic Act;
- On two or more occasions within a 12-month period for the unlicensed or unlawful sale of alcoholic beverages;
- On one occasion for unlawful possession of a controlled substance, if the possession is a felony and if the location has previously been used on more than one occasion for unlawful sale, delivery, manufacture, or cultivation of any control substance; or
- By a criminal gang for conducting criminal gang activity.<sup>5</sup>

#### Nuisance Abatement and Enjoinment

The persons and places identified as a public nuisance may be enjoined.<sup>6</sup> When any such nuisance exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county where the nuisance exists may bring a nuisance abatement action in the name of the state to enjoin the nuisance, the person maintaining it, and the owner or agent of the premises where the nuisance is located.<sup>7</sup>

The person bringing suit may apply for a temporary nuisance injunction after giving the defendant at least three days' written notice of the time and place where such application will occur.<sup>8</sup> A court issuing an injunction must

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<sup>1</sup> Black's Law Dictionary 736 (6th ed. 1996).

<sup>2</sup> *Id.*

<sup>3</sup> *Orlando Sports Stadium, Inc. v. Powell*, 262 So. 2d 881 (Fla. 1972).

<sup>4</sup> *Powell*, 262 So. 2d at 881.

<sup>5</sup> S. [893.138\(2\), F.S.](#)

<sup>6</sup> S. [823.05\(1\), \(2\)\(b\) and \(c\), and \(3\), F.S.](#)

<sup>7</sup> S. [60.05\(1\), F.S.](#)

<sup>8</sup> A nuisance is enjoined when an injunction is issued against it. An injunction is a court order requiring a person to do or stop doing a specific action. S. [60.05\(2\), F.S.](#); see Legal Information Institute, [Enjoin](#) (last visited Mar. 12, 2025); see also Legal Information Institute, [Injunction](#) (last visited Mar. 12, 2025).

specify what activities are enjoined but may not preclude the operation of a lawful business not conducive to the maintenance of a nuisance.<sup>9</sup>

If a nuisance is found to exist at trial, the court must issue a permanent injunction and order the person establishing or maintaining the nuisance to pay the proceedings' costs, which may include a lien on personal property found in the place of the nuisance and, if the property does not bring enough to repay the costs, on the real estate occupied by the nuisance.<sup>10</sup> However, no lien may attach on real property belonging to someone other than the person establishing or maintaining the nuisance unless such person received five days' written notice and failed to start abating the nuisance within that time.<sup>11</sup>

Additionally, if a tenant was convicted of an offense involving controlled substances or prostitution, the court may order the tenant to vacate the property within 72 hours so long as the tenant and premises owner are parties to the nuisance abatement action and the order will lead to nuisance abatement.<sup>12</sup>

### **Nuisance Abatement Boards**

Local governments are authorized to create administrative boards to hear complaints regarding nuisances and impose fines or other noncriminal penalties to enforce local government ordinances.<sup>13</sup> Local governments establish nuisance abatement boards via local ordinance. The size of boards varies as does the length of the term each member serves.<sup>14</sup> Any employee, officer, or resident of a county or municipality may bring a complaint before the board, provided that written notice of the complaint is given to the owner of the place or premises in question at least three days prior to the board meeting.<sup>15</sup>

If the board declares a place to be a public nuisance, it may enter an order requiring the owner of the property to take the actions necessary to abate the nuisance or may demand immediate action to abate the nuisance.<sup>16</sup> This order expires after one year, unless an earlier time is stated in the order, and may be enforced in the same manner as an enforcement action by a state agency.<sup>17</sup>

Local governments may also supplement these requirements by local ordinance.<sup>18</sup> The ordinance may provide for:

- Additional penalties, including fines of up to \$250 per day or \$500 per day for recurring nuisances, subject to a \$15,000 limit;
- The payment of reasonable costs incurred by the local government, including reasonable attorney fees associated with investigations and hearings;
- Continuing jurisdiction for a period of one year over any place or premises that has been or is declared to be a public nuisance;
- Recording orders to give notice to subsequent purchasers or owners of the property;
- Placing a lien on the property subject to the order; and
- Foreclosing on a property subject to a lien for the recovery of all costs associated with the recording of orders and foreclosure, provided the property is not a homestead property.<sup>19</sup>

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<sup>9</sup> *Id.*

<sup>10</sup> S. [60.05\(5\), F.S.](#)

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> S. [893.138, F.S.](#)

<sup>14</sup> S. [893.138\(4\), F.S.](#) See, e.g., City of Orlando, [Criminal Nuisance Abatement Board](#) (last visited Mar. 12, 2025), City of Jacksonville, [Public Nuisance Abatement Board](#) (last visited Mar. 12, 2025), and Hillsborough County, [Nuisance Abatement Board](#) (last visited Mar. 12, 2025).

<sup>15</sup> S. [893.138\(4\), F.S.](#)

<sup>16</sup> S. [893.138\(5\), F.S.](#)

<sup>17</sup> S. [893.138\(6\)-\(7\), F.S.](#)

<sup>18</sup> S. [893.138\(11\), F.S.](#)

<sup>19</sup> *Id.*

## BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Intergovernmental Affairs Subcommittee</a>	16 Y, 0 N, As CS	3/19/2025	Darden	Jones
THE CHANGES ADOPTED BY THE COMMITTEE:	Removes language allowing a county or municipality to enter into an agreement with the tax collector to recover fines via non-ad valorem special assessments.			
<a href="#">Civil Justice &amp; Claims Subcommittee</a>				
<a href="#">State Affairs Committee</a>				

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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