

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	COMPANION BILL: CS/SB 1022 (Wright)
TITLE: Fines for Public Nuisance Abatement	LINKED BILLS: None
SPONSOR(S): Booth, Yarkosky	RELATED BILLS: None

Committee References

[Intergovernmental Affairs](#)

16 Y, 0 N, As CS



[Civil Justice & Claims](#)

14 Y, 0 N



[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;
- Remove 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 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 declared to be a nuisance until the public nuisance is abated. (Section [1](#))

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

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

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, with no cap on the total amount of fines that may be assessed over time.

STORAGE NAME: h1343c.CIV

DATE: 4/3/2025

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.¹ 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.²

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.³ 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.⁴ Generally, s. 823.05, F.S., governs activity which constitutes a nuisance; however, local cities, counties, and municipalities may further identify nuisances under their respective ordinances.

Under Florida law, 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.⁵

Nuisance Abatement and Injunction

The persons and places identified as a public nuisance may be enjoined.⁶ 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.⁷

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.⁸ A court issuing an injunction must specify what activities are enjoined but may not preclude the operation of a lawful business not conducive to the maintenance of a nuisance.⁹

¹ Black’s Law Dictionary 736 (6th ed. 1996).

² *Id.*

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

⁴ *Powell*, 262 So. 2d at 881.

⁵ S. [893.138\(2\), F.S.](#)

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

⁷ S. [60.05\(1\), F.S.](#)

⁸ 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).

⁹ *Id.*

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.¹⁰ 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.¹¹

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.¹²

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.¹³ Local governments establish nuisance abatement boards via local ordinance. The size of boards varies as does the length of the term each member serves.¹⁴ 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.¹⁵

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.¹⁶ 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.¹⁷

Local governments may also supplement these requirements by local ordinance.¹⁸ 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.¹⁹

Attorney Fees

Statutorily-Provided Attorney Fees

¹⁰ S. [60.05\(5\), F.S.](#)

¹¹ *Id.*

¹² *Id.*

¹³ S. [893.138, F.S.](#)

¹⁴ 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).

¹⁵ S. [893.138\(4\), F.S.](#)

¹⁶ S. [893.138\(5\), F.S.](#)

¹⁷ S. [893.138\(6\)-\(7\), F.S.](#)

¹⁸ S. [893.138\(11\), F.S.](#)

¹⁹ *Id.*

Several Florida and federal statutes state that a prevailing party in court proceedings is entitled to attorney fees as a matter of right.²⁰ These statutes are known as “fee-shifting statutes” and often entitle the prevailing party to a reasonable attorney fee, which must be paid by the other party. When a fee-shifting statute applies, the court must determine and calculate what constitutes a reasonable attorney fee.

Lodestar Approach

In 1985, the Florida Supreme Court held that courts should calculate the amount of statutorily-authorized attorney fees under the “lodestar approach.”²¹ Under this approach, the first step is for the court to determine the number of hours reasonably expended by an attorney on the case. The second step requires the court to determine a reasonable hourly rate. The number of hours reasonably expended (determined in the first step), multiplied by the reasonable hourly rate (determined in the second step), produces the “lodestar amount,” which is considered an objective basis for what the attorney fee amount should be.

Foreclosure

Foreclosure is the legal process for forced sale at auction of real property to satisfy, in part or in whole, an unpaid lawful debt owed by the owner of the property. If the winning bidder is a third-party bidder, the proceeds of the sale first pay the costs of the foreclosure, then the rest of the proceeds are applied to the debt owed to the judgment creditor. Some foreclosure auctions yield a surplus because the final bid exceeds the debt. A foreclosure surplus is paid to or for the benefit of the foreclosed former owner.

In most foreclosures, however, there is no surplus after the foreclosure sale. Commonly, the plaintiff is the winning bidder and takes title to the property. Foreclosure is most often used in the context of a mortgage where the property owner has agreed to the debt. Foreclosures also result from construction liens, certain tax liens, association liens, and judgment liens.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Intergovernmental Affairs Subcommittee	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.			
Civil Justice & Claims Subcommittee State Affairs Committee	14 Y, 0 N		Jones	Mathews

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

²⁰ See, e.g., [s. 627.428, F.S.](#) (providing that an insured who prevails against an insurer is entitled to “a reasonable sum” of attorney fees); [s. 501.2105, F.S.](#) (providing that the prevailing party in an action under the Florida Deceptive and Unfair Trade Practices Act (FDUTPA) is entitled to “a reasonable legal fee”); [42 U.S.C. s. 1988\(b\)](#) (providing that a prevailing party seeking to enforce specified civil rights statutes may recover “a reasonable attorney’s fee”).

²¹ *Fla. Patient’s Comp. Fund v. Rowe*, 472 So. 2d 1145 (Fla. 1985).