

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Civil Justice Subcommittee
 2 Representative McClain offered the following:

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

(2) The court may allow a temporary injunction without bond on proper proof being made. If it appears by evidence or

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17 affidavit that a temporary injunction should issue, the court,
18 pending the determination on final hearing, may enjoin any of
19 the following:

20 (a) The maintaining of a nuisance.~~†~~

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

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

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

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

33 (3) (a) The defendant shall be given written notice to abate
34 the nuisance within 10 days after the issuance of such notice ~~at~~
35 ~~least 3 days' notice in writing shall be given defendant of the~~
36 ~~time and place of application for the temporary injunction. The~~
37 notice must inform the defendant that an application for
38 temporary injunction may be filed if the nuisance is not abated.
39 If the nuisance is not timely abated, the defendant must be
40 given a second written notice that informs the defendant that an
41 application for a temporary injunction will be filed if the
42 nuisance is not abated within 15 days after the end of the

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43 initial 10-day period. This notice also must provide the
44 location where the application will be filed and the time that
45 it will be filed. If the nuisance is not timely abated as
46 provided in the second notice, the application for the temporary
47 injunction must be filed as indicated in the notice.

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

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

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

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

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

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

64 (d) If a nuisance presents a danger of immediate and
65 irreparable injury to a person or to the safety of a community,
66 the notice requirements under paragraph (a) are waived, and only
67 one notice is required, which must inform the defendant that the
68 application for a temporary injunction will be filed if the

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69 nuisance is not abated within a designated timeframe of between
70 24 and 72 hours. The notice also must identify the location
71 where the application will be filed and time that it will be
72 filed.

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

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

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95 hours if the tenant and owner of the premises are parties to the
96 nuisance abatement action and the order will lead to the
97 abatement of the nuisance.

98 (6)~~(5)~~ If the action was brought by the Attorney General, a
99 state attorney, or any other officer or agency of state
100 government; if the court finds either before or after trial that
101 there was no reasonable ground for the action; and if judgment
102 is rendered for the defendant, the costs and reasonable
103 attorney's fees shall be taxed against the state.

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106 **T I T L E A M E N D M E N T**

107 Between lines 2 and 3, insert:

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