

CHAPTER 822

S.B. No. 544

AN ACT

relating to the right of the attorney general to sue for forfeiture of certain bonds and to the disposition of the bond money.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 125.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 125.003. SUIT ON BOND. (a) If a condition of a bond filed or an injunctive order entered under this subchapter is violated, the district, county, or city attorney of the county in which the property is located or the attorney general shall sue on the bond in the name of the state. *In the event the attorney general originates the [that] suit, the whole sum shall be forfeited as a penalty to the state. In the event the suit is originated by any office other than the attorney general, the whole sum shall be forfeited as a penalty to the originating entity.* On violation of any condition of the bond or of the injunctive order and subsequent to forfeiture of the bond, the place where the nuisance exists shall be ordered closed for one year from the date of the order of bond forfeiture.

(b) *The party bringing the suit may recover reasonable expenses incurred in prosecuting the suits authorized in Subsection (a) including but not limited to investigative costs, court costs, reasonable attorney's fees, witness fees, and deposition fees.*

(c) A person may not continue the enjoined activity pending appeal or trial on the merits of an injunctive order entered in a suit brought under this subchapter. Not later than the 90th day after the date of the injunctive order, the appropriate court of appeals shall hear and decide an appeal taken by a party enjoined under this subchapter. If an appeal is not taken

by a party temporarily enjoined under this article, the party is entitled to a full trial on the merits not later than the 90th day after the date of the temporary injunctive order.

(d) [~~e~~] In an action brought under this chapter, the court may award a prevailing party reasonable attorney's fees in addition to costs. In determining the amount of attorney's fees, the court shall consider:

- (1) the time and labor involved;
- (2) the novelty and difficulty of the questions;
- (3) the expertise, reputation, and ability of the attorney; and
- (4) any other factor considered relevant by the court.

(e) [~~d~~] Nothing herein is intended to allow a suit to enjoin and abate a common nuisance to be brought against any enterprise whose sole business is that of a bookstore or movie theater.

SECTION 2. (a) The change in law made by this Act applies only to bonds posted on or after the effective date of this Act.

(b) Bonds posted before the effective date of this Act are covered by the law in effect when the bond was posted, and the former law is continued in effect for this purpose.

SECTION 3. This Act takes effect September 1, 1993.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 18, 1993, by a viva-voce vote; passed the House on May 26, 1993, by a non-record vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.