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HEALTH AND SAFETY CODE - HSC

DIVISION 3. PEST ABATEMENT [2000 - 2910] (*Heading of Division 3 amended by Stats. 1957, Ch. 205.*)

CHAPTER 1. Mosquito Abatement and Vector Control Districts [2000 - 2093] (*Chapter 1 added by Stats. 2002, Ch. 395, Sec. 6.*)

ARTICLE 5. Abatement [2060 - 2067] (*Article 5 added by Stats. 2002, Ch. 395, Sec. 6.*)

2060. (a) A district may abate a public nuisance pursuant to this article.

(b) The person or agency claiming ownership, title, or right to property or who controls the diversion, delivery, conveyance, or flow of water shall be responsible for the abatement of a public nuisance that is caused by, or as a result of, that property or the diversion, delivery, conveyance, or control of that water.

(*Added by Stats. 2002, Ch. 395, Sec. 6. Effective January 1, 2003.*)

2061. (a) Whenever a public nuisance exists on any property within a district or on any property that is located outside the district from which vectors may enter the district, the board of trustees may notify the owner of the property of the existence of the public nuisance.

(b) The notice required by subdivision (a) shall do all of the following:

(1) State that a public nuisance exists on the property, describe the public nuisance, and describe the location of the public nuisance on the property.

(2) Direct the owner of the property to abate the nuisance within a specified time.

(3) Direct the owner of the property to take any necessary action within a specified time to prevent the recurrence of the public nuisance.

(4) Inform the owner of the property that the failure to comply with the requirements of the notice within the specified times may result in the district taking the necessary actions, and that the owner shall be liable for paying the costs of the district's actions.

(5) Inform the owner of the property that the failure to comply with the requirements of the notice within the specified times may result in the imposition of civil penalties of up to one thousand dollars (\$1,000) per day for each day that the public nuisance continues after the specified times.

(6) Inform the owner of the property that before complying with the requirements of the notice, the owner may appear at a hearing of the board of trustees at a time and place stated in the notice.

(c) The board of trustees shall cause the notice required by subdivision (a) to be served on the owner of the property in the same manner as a summons in a civil action. If, after a diligent search, the notice cannot be served on the owner of the property, the board of trustees shall cause the notice to be posted in a conspicuous place on the property for not less than 10 days before the hearing. Not less than 10 days before the hearing, the board of trustees shall also cause a copy of the notice to be mailed by certified mail to the owner of the property at the address shown on the most recent assessment roll of the county in which the property is located.

(d) At the hearing before the board of trustees at the time and place stated in the notice, the board of trustees shall accept written and oral testimony from the property owner and other persons. At the close of the hearing, the board of trustees shall find, based on substantial evidence in the record, whether a public nuisance exists on the property. If the board of trustees finds that a public nuisance exists, the board of trustees shall order the owner of the property to abate the public nuisance and to take other necessary actions to prevent the recurrence of the public nuisance. The board of trustees shall specify a reasonable time by which the owner of the property shall comply with these requirements.

(e) If the owner of the property does not abate the public nuisance and take the necessary actions to prevent the recurrence of the public nuisance within the time specified by the board of trustees, the district may abate the public nuisance and take the necessary actions to prevent the recurrence of the public nuisance. In addition, the board of trustees may impose civil penalties pursuant to Section 2063.

(Added by Stats. 2002, Ch. 395, Sec. 6. Effective January 1, 2003.)

2062. (a) A board of trustees shall not declare an agricultural operation to be a public nuisance because of the presence of immature flies if the board determines that the agricultural operation is designed and managed consistent with the accepted standards and practices for controlling fly development on similar agricultural operations.

(b) As used in this section, "accepted standards and practices" means those standards and practices determined by the University of California Cooperative Extension, the department, or local public health agencies. These standards and practices include, but are not limited to, all of the following:

- (1) Property design and layout of the agricultural operation to minimize the opportunity for fly development.
- (2) A comprehensive system for manure management to include storage, removal, and disposal.
- (3) A comprehensive system for green waste management to include storage, removal, and disposal.
- (4) An integrated pest management program to control the development and harborage of flies, including the components of surveillance, management, containment, and control.

(Added by Stats. 2002, Ch. 395, Sec. 6. Effective January 1, 2003.)

2063. In addition to abating the public nuisance and taking any necessary actions to prevent the recurrence of the public nuisance, a board of trustees may impose a civil penalty on the owner of the property for failure to comply with the requirements of Section 2061. The civil penalty may not exceed one thousand dollars (\$1,000) per day for each day that the owner of the property fails to comply with the district's requirements.

(Added by Stats. 2002, Ch. 395, Sec. 6. Effective January 1, 2003.)

2064. A board of trustees may consider any recurrence of a public nuisance abated pursuant to Section 2061 to be a continuation of the original public nuisance.

(Added by Stats. 2002, Ch. 395, Sec. 6. Effective January 1, 2003.)

2065. (a) The owner of the property abated pursuant to Section 2061 shall pay the district for the cost of abating the public nuisance and the cost of any necessary actions to prevent the recurrence of the public nuisance. The owner shall also pay any civil penalty imposed pursuant to Section 2063.

(b) If the owner of the property fails to pay the district's costs within 60 days, the board of trustees may order the costs and any civil penalties charged and collected against the property. The charge shall be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the costs and civil penalties charged and collected against the property.

(c) If the board of trustees charges the costs and any civil penalties against the parcel, the board of trustees may also cause the notice of abatement lien to be recorded. The notice shall, at a minimum, identify the record owner of the property, set forth the last known address of the record owner, set forth the date upon which the abatement of the public nuisance was ordered by the board of trustees, set forth the date upon which the abatement and any necessary actions to prevent the recurrence of the public nuisance was complete, and include a description of the real property subject to the lien and the amount of the cost and any civil penalties.

(d) However, if the board of trustees does not cause the recordation of a notice of abatement lien pursuant to subdivision (c), and any real property to which the costs and any civil penalties relate has been transferred or conveyed to a bona fide purchaser for value, or a lien on a bona fide encumbrancer for value has been created and attaches to that property, prior to the date on which the first installment of county taxes would become delinquent, then the cost and any civil penalties may not result in a lien against that real property but shall be transferred to the unsecured roll for collection.

(e) Recordation of a notice of abatement lien pursuant to subdivision (c) shall have the same effect as recordation of an abstract of a money judgment recorded pursuant to Article 2 (commencing with Section 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure. The lien created shall have the same priority as a judgment lien on real property and shall continue in effect until released. Upon order of the board of trustees, an abatement lien created under this section may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

(Added by Stats. 2002, Ch. 395, Sec. 6. Effective January 1, 2003.)

2066. The lien provisions of this article shall not apply to property owned by a public agency. Notwithstanding Section 6103 of the Government Code or any other provision of law, a public agency shall pay the district for the cost of abating the public nuisance, the cost of any necessary actions to prevent the recurrence of the public nuisance, and any civil penalties.

(Added by Stats. 2002, Ch. 395, Sec. 6. Effective January 1, 2003.)

2067. Any money collected by a county from a lien authorized pursuant to this article, other than the amounts authorized pursuant to Section 29304 of the Government Code, shall be paid to the district.

(Added by Stats. 2002, Ch. 395, Sec. 6. Effective January 1, 2003.)