

411.560 Damages for private nuisance.

- (1) Damages allowable for a private nuisance shall be as follows:
 - (a) If the nuisance is a permanent nuisance, compensatory damages shall be measured by the reduction in the fair market value of the claimant's property caused by the nuisance, but not to exceed the fair market value of the property;
 - (b) If the nuisance is a temporary nuisance and:
 1. The claimant occupied the property during the continuance of the nuisance, compensatory damages shall be measured by the diminution in the value of the use of the property which resulted from the nuisance; or
 2. The claimant did not occupy the property during the continuance of the nuisance, compensatory damages shall be measured by the diminution in the fair rental value of the property which resulted from the nuisance.
- (2) A defendant who contributes to a nuisance is responsible for damages as provided in this section only to the extent of such defendant's proportionate contribution to the nuisance as provided in the provisions of KRS 411.182.
- (3) No damages shall be awarded for annoyance, discomfort, sickness, emotional distress, or similar claims for a private nuisance. In the event a claim for injury or damage to a person is asserted in the same proceeding as a claim for damage to the claimant's property caused by a private nuisance, liability for such personal injury or damage shall be determined on the basis of applicable principles of tort law independent of whether the defendant's use of property is found to constitute a nuisance.
- (4) A claimant may recover punitive damages for a private nuisance if the claimant recovers damages pursuant to this section and the defendant's conduct in engaging in the specific activity which is alleged to be the nuisance meets or exceeds the standards set forth in KRS 411.184. All provisions of KRS 411.184 and 411.186 shall apply to claims for punitive damages.
- (5) No person shall have standing to bring an action for private nuisance unless the person has an ownership interest or possessory interest in the property alleged to be affected by the nuisance.

Effective: May 24, 1991

History: Created 1991 (1st Extra. Sess.) Ky. Acts ch. 11, sec. 7, effective May 24, 1991.