

- SUBJECT:** Receivership and rehabilitation of certain property
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 5 ayes — Giddings, Elkins, Darby, Solomons, Zedler  
0 nays  
4 absent — Bailey, Bohac, Castro, Martinez
- SENATE VOTE:** On final passage, May 10 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** No public hearing
- BACKGROUND:** Local Government Code, ch. 214 governs a municipality's ability to regulate the safety and structural integrity of housing. Sec. 214.003 allows a home-rule municipality to bring an action in district court against an owner of residential property that is not in substantial compliance with municipal ordinances regarding fire protection, structural integrity, zoning, or disposal of refuse. The court may appoint as a receiver for such property a nonprofit organization with a demonstrated record of rehabilitating residential properties upon finding that:
- the structures on the property are in violation of municipal ordinances regulating safety and structural integrity;
  - due notice of violation was given to the record owner of the property; and
  - a public hearing has been conducted in accord with relevant statutes.
- The court may appoint as a receiver of historic property a nonprofit organization or individual with a demonstrated record of rehabilitation provided the property, in addition to meeting the standards above, is reviewed by the municipal preservation board.
- An appointed receiver or municipality may petition the court to terminate the receivership and order the sale of the property if:
- the receiver controlled the property for more than two years and no

- legal owner had been identified after a diligent search; or
- the receiver controlled the property for more than three years, and an owner had been identified and served notice but did not assume control or repay all rehabilitation and maintenance costs incurred by the receiver.

A court could order the sale of a property at a public auction upon finding that the property met the above conditions and no lienholder of record had intervened and offered to repay costs incurred by the receiver and assume control of the property.

**DIGEST:**

SB 1444 would modify provisions authorizing the receivership and rehabilitation of property under sec. 214.003. The bill would strike references restricting the scope of applicability of the receivership statute to residential property. Receivers would be authorized to collect a receivership fee of 10 percent of total costs and expenses, which would be added to the amount an owner would have to pay to recover the property. Receivers would have a lien on the property in the amount of the fee and all unrecovered costs and expenses.

SB 1444 would eliminate procedural distinctions between properties whose owners had been notified and those with no identified owner. After providing sufficient public notice, receivers could petition for termination, and a court could order the sale of a property under receivership if an owner failed to pay rehabilitation expenses and the receivership fee within one year of the property being received. A receiver could bid on the property at a court-ordered sale and could apply any existing liens as credit toward the purchase of the property.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

SB 1444 would make necessary revisions to the receivership statute to increase its utility for municipalities and nonprofit housing rehabilitation organizations. Existing statutory provisions make receivership processes prohibitively difficult to exercise and discourage interest among nonprofit organizations. Current law requires a receiver to wait two or three years, depending on whether a property owner has been located, before petitioning to terminate the receivership and thereby authorizing a court-ordered sale of the property. Nonprofit housing rehabilitation

organizations often have small-scale operations and are incapable of initiating multiple housing rehab projects at once without recovering invested capital. Current law effectively requires a housing rehab organization to wait two or three years before recovering expenses incurred as a result of rehabilitating a property. This extensive timeframe impairs a nonprofit's ability to apply tied-up capital to other projects and limits interest in participating in a receivership program.

SB 1444 would reduce to one year the period of time a receiver would have to wait before petitioning to terminate a receivership. In that time, a property owner would retain a primary right to pay receivership expenses and dissolve any liens placed on the property. A receiver also would gain the option of assessing a receivership fee of 10 percent of the total expenses of the rehabilitation and could add this to the amount required to recover the property. Decreasing the minimum receivership time to one year and allowing receivers to collect a 10 percent fee would make receivership a viable option for nonprofit housing rehabilitation organizations and other qualified individuals. Receivers would be able to complete a rehabilitation project and recover expenses in a reasonable timeframe, and a receivership fee would offset losses due to carrying costs of loans and inflation. The fee also would help offset the risk a receiver takes in opting to commence a rehabilitation project.

SB 1444 would broaden the scope of receivership to include nonresidential properties. This would allow for rare but critical restorations of historical, commercial, and agricultural properties that had been abandoned or fallen into severe disrepair. The bill would add provisions clarifying that expenses incurred by receivers would be applied to the property as liens, adding additional protection for receivers that dedicate substantial revenue to a rehabilitation project. SB 1444 would retain provisions in current statutes affording owners and lienholders of property under receivership the right to pay receiver expenses and reclaim an unencumbered interest in the property.

OPPONENTS  
SAY:

No apparent opposition.