

- SUBJECT:** Allowing municipalities to place a lien on a homestead property
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 5 ayes — Dutton, Alvarado, Anchia, Elkins, J. Rodriguez
0 nays
1 absent — Leach
1 present, not voting — Sanford
- WITNESSES:** For — Bill Longley, Texas Municipal League

Against — Jarrod Atkinson; (*Registered, but did not testify*: Teresa Beckmeyer)
- BACKGROUND:** Texas Constitution, Art. 16, Sec. 50 protects a homestead from forced sale for the payment of all debts and includes eight specific exemptions.

A homestead property is defined by Section 41.002 of the Property Code as the single home for a family or single adult, not more than 10 acres for an urban home or 200 acres for a rural home.

Local Government Code, ch. 214 allows a municipality to require the vacation, relocation of occupants, securing, repair, removal, or demolition of a dangerous property as defined in the code and set by municipal ordinance. If the owner does not remedy the property, the municipality may do so itself and assess the expense or file a lien against the property, unless it is a homestead property.
- DIGEST:** HB 2757 would allow a municipality to place a lien against a homestead property and assess the expenses on it if the municipality had incurred expenses when vacating, relocating occupants, securing, removing, or demolishing the building that was deemed dangerous and the owner did not remedy the property. The bill would allow a municipality to do the same to remedy an enclosure or fence for a swimming pool on a homestead property if the enclosure or fence did not meet municipal code.

HB 2757 would take effect January 1, 2014, but only if HJR 123 by D. Bonnen were approved by voters. If the constitutional amendment were not approved, the bill would have no effect.

**SUPPORTERS
SAY:**

In conjunction with the approval by voters of HJR 123, HB 2757 would allow municipalities to recoup the taxpayer dollars they spend to remedy dangerous private structures that owners neglect. Texas municipalities have a duty to secure, repair, or demolish a dangerous structure that the structure's owner has not remedied in order to prevent blight and maintain public safety. Under current law, however, the municipality cannot file a lien against the property to recover its costs if the property is a homestead, which leaves municipalities vulnerable to paying for the cost of remedying the property. As a result, taxpayer money is spent improving private property instead of for public purposes.

The Texas Constitution allows homestead liens for such transactions as refinancing a mortgage, a line of credit, and a reverse mortgage, but does not protect taxpayer money that is used to remedy a dangerous structure that the owner refuses to fix. This bill would simply provide municipalities the ability within their existing ordinances to recoup taxpayer funds after abating dangerous structures.

**OPPONENTS
SAY:**

HB 2757, in conjunction with HJR 123, would weaken the homestead property protections in the Texas Constitution by allowing a municipality to force a sale or file a lien on a homestead if a structure on the property was deemed dangerous. HJR 123 would tie the constitutional definition of dangerous structure to the statutory definition, which would give municipalities the ability to set their own definitions by ordinance. The definitions of dangerous structure in statutes and ordinances may change and weaken over time, broadening the impact of the constitutional amendment in conjunction with HB 2757, its enabling legislation. A homestead property owner could disagree with a municipality over whether a structure was dangerous, but the municipality could force sale or file a lien on the property if the municipality remedied, or even demolished, the structure.

NOTES:

HB 2757 is the enabling legislation for HJR 123 by Bonnen. HJR 123 was reported favorably from the House Committee on Urban Affairs on April 17.