

BILL ANALYSIS

Senate Research Center
81R4161 PMO-D

S.B. 1447
By: West
Intergovernmental Relations
3/30/2009
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the interim of the 80th Legislature, the Senate Committee on Intergovernmental Relations was charged with examining the incidence of health and safety violations among multi-family and single-family rental properties and the adequacy of the existing authority conferred by the state upon local governments to address violations of habitability standards.

As proposed, S.B. 1447 implements one of the recommendations of the Intergovernmental Relations Committee by authorizing municipalities to pursue civil penalties for violations of municipal ordinances *in rem* to ensure that any court-ordered judgments pertain to the structure. It also expands the ability of a municipality to pursue the appointment of a receiver for certain municipal ordinances. In addition, S.B. 1447 aligns receivership provisions for all properties by allowing a court to appoint an individual or a nonprofit organization, with a demonstrated record of rehabilitating properties as a receiver, similar to the current authority granted municipalities for historic properties.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 54.018(b), Local Government Code, to authorize a municipality to bring, in an action under this section, an action in rem against the structure that may result in a judgment against the structure as well as a judgment against the defendant.

SECTION 2. Amends Sections 214.003(a), (b), (c), and (i), Local Government Code, as follows:

(a) Authorizes a home-rule municipality to bring an action in district court against an owner of property that is not in substantial compliance with a municipal ordinance described by Section 54.012(1) (relating to authorization to bring a civil action for the enforcement of an ordinance relating to the materials or methods used to construct a building or other structure or improvement), (2) (relating to authorization to bring a civil action for the enforcement of an ordinance relating to the preservation of public health or to the fire safety of a building or other structure or improvement), (5) (relating to authorization to bring a civil action for the enforcement of an ordinance implementing certain civil penalties), (6) (relating to authorization to bring a civil action for the enforcement of an ordinance relating to dangerously damaged or deteriorated structures or improvements, (7) (relating to authorization to bring a civil action for the enforcement of an ordinance relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents), or (9) (relating to authorization to bring a civil action for the enforcement of an ordinance relating to point source effluent limitations or the discharge of a pollutant into a sewer system owned or controlled by the municipality).

(b) Authorizes the court, except as provided by Subsection (c), to appoint as a receiver for the property a nonprofit organization or an individual, rather than a nonprofit organization, with a demonstrated record of rehabilitating properties if the court finds that the structures on the property are in violation of the standards set forth in Section 214.001(b) (relating to requirements for criteria of the ordinance) and an ordinance

described by Subsection (a), notice of violation was given to the record owner of the property, and a public hearing as required by Section 214.001(d) (relating to certain actions to be taken if a building is found in violation of standards set out in the ordinance) has been conducted.

(c) Authorizes a receiver appointed under Subsection (b) to act as a receiver for any property, including historic property subject to Section 214.00111 (Additional Authority to Preserve Substandard Building as Historic Property). Deletes existing text authorizing the court to appoint as a receiver for historic property subject to Section 214.00111 a nonprofit organization or an individual with a demonstrated record of rehabilitating historical buildings if the court finds that the structures on the property are in violation of the standards established under Section 214.001(b) and an ordinance described by Subsection (a); the structure has been reviewed by the municipal historic preservation board and the structure meets the criteria set forth in Section 214.00111; notice of the violation was given to the record owner of the property; and a public hearing as required by Section 214.001 (Authority Regarding Substandard Building) has been conducted.

(i) Authorizes any record lienholder, after initiation of an action by a municipality, to request appointment as a receiver under the same conditions as the nonprofit organization or individual.

SECTION 3. Effective date: September 1, 2009.