

BILL ANALYSIS

Senate Research Center

S.B. 1448
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Intergovernmental Relations
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Poor maintenance practices at residential and commercial lease properties in the state occasionally result in death or injury to occupants even after municipal citations have been served. Under current law, a leaseholder must endure a lengthy and expensive process to correct violations of municipal health and safety code.

The purpose of this bill is to provide an affordable and timely recourse to occupants who wish to take direct corrective action to protect their families and possessions.

As proposed, S.B. 1448 authorizes a tenant to bring a civil action against an owner of real property to seek a remedy for an ordinance violation relating to a condition that materially affects the health or safety of an ordinary tenant, if the tenant has completed certain tasks.

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 Subchapter B, Chapter 54, Local Government Code, by adding Section 54,011, as follows:

Sec. 54.011. DEFINITION. Defines "tenant."

SECTION 2. Amends Section 54.012, Local Government Code, as follows:

Sec. 54.012. CIVIL ACTION. (a) Creates this subsection from existing text.

(b) Authorizes a tenant to bring a civil action against an owner of real property to seek a remedy for an ordinance violation relating to a condition that materially affects the health or safety of an ordinary tenant, if the tenant has paid, deposited, or tendered all rental payments owed under the lease agreement; has provided written notice to the owner or the owner's representative describing the condition; and has provided the owner a reasonable amount of time to repair or remedy the condition considering the severity and nature of a condition that could impact an ordinary tenant; and the reasonable availability of materials, labor, and utilities to repair or remedy the condition.

(c) Authorizes a tenant to join an action under this section that relates to the tenant's dwelling, building, or structure. Prohibits a tenant from joining an action originally brought by a municipality unless the municipality consents.

(d) Authorizes the owner to recover from the tenant a civil penalty of one month's rent plus \$500, court costs, and reasonable attorney's fees if a tenant files a suit under this subchapter in bad faith. Requires that the civil penalty granted under this section reflect the fair market rent of the dwelling plus \$500 if the tenant's rent payment to the owner is subsidized in whole or in part by a governmental entity.

SECTION 3. Amends Subchapter B, Chapter 54, Local Government Code, by amending Section 54.013 and adding Section 54.0131, as follows:

Sec. 54.013. JURISDICTION; VENUE. Creates this subsection from existing text. Provides that jurisdiction and a venue of an action under this subchapter are in a district court, county court at law, or justice court of the county in which the conduct has occurred or is occurring or the condition or structure is located. Deletes existing text providing that jurisdiction and a venue of an action under this subchapter are in the district court or the county court at law of the county in which the municipality bringing the action is located.

Sec. 54.0131. VENUE; HEARING; APPEAL IN JUSTICE COURT. Provides that a venue of an action relating to a structure brought in a justice court under this subchapter is the precinct of the county where the structure is located.

(b) Requires that the hearing on an action brought in justice court under Section 54.012(b) be held not less than six nor more than 10 calendar days after the action is brought unless an emergency exists.

(c) Requires the justice court, at the conclusion of the hearing, to either grant or deny permanent injunctive relief as appropriate based upon the evidence presented at the hearing.

(d) Requires that there be a finding that the evidence establishes a violation of an ordinance before the justice court grants permanent injunctive relief.

(e) Authorizes either party to appeal the judgment of the justice court as in other civil cases. Provides that an appeal of a justice court judgment takes precedence in county court and authorizes an appeal of a justice court judgment to be held at any time after the eighth day after the date the transcript is filed in the county court. Provides that the perfection of an appeal to county court by an owner of real property stays the effect of the judgment without the necessity of posting a supersedeas bond.

SECTION 4. Amends Section 54.016, Local Government Code, as follows:

Sec. 54.016. INJUNCTION. (a) Authorizes a municipality or a tenant, on a showing of substantial danger of injury or an adverse health impact to any person or to the property of any person other than the defendant, to obtain against the owner or owner's representative with control over the premises an injunction that prohibits specific conduct that violates the ordinance, and requires specific conduct that is necessary for compliance with the ordinance.

(b) Requires a court, in determining the specific conduct required under Subsection (a)(2), to consider the severity and nature of the violation and the reasonable availability of materials, labor, and utilities.

(c) Creates this subsection from existing text. Provides that is not necessary for the municipality or tenant to prove that another adequate remedy or penalty for a violation does not exist or to show that prosecution in a criminal action has occurred or has been attempted.

(d) Authorizes a justice court to only require the owner to repair or remedy the condition.

SECTION 5. Amends Section 54.018(a), Local Government Code, as follows:

(a) Authorizes the municipality or a tenant to bring an action to compel the repair of a structure. Authorizes a municipality to bring an action to compel the demolition of a structure or to obtain approval to remove the structure and recover removal costs. Makes a conforming change.

SECTION 6. Amends Subchapter B, Chapter 54, Local Government Code, by adding Section 54.020, as follows:

Sec. 54.020. NO EFFECT ON OTHER DUTIES OF TENANT. Provides that this subchapter does not affect any duties or other obligations or responsibilities a tenant has to an owner or the owner's representative, including an obligation to pay rent or other obligations of the lease agreement.

SECTION 7. Effective date: January 1, 2010.