

BILL ANALYSIS

Senate Research Center
83R26803 NC-D

C.S.H.B. 1554
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Intergovernmental Relations
5/9/2013
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to interested parties, it is not clear under current law whether a municipality may bring a civil action when enforcing a local ordinance regarding floodplain violations, such as violations related to non-permitted construction or fill placed in the floodplain. C.S.H.B. 1554 seeks to protect property owners susceptible to flash floods by authorizing a municipality to pursue civil remedies for floodplain ordinance violations.

C.S.H.B. 1554 amends current law relating to the authority of municipalities to file a lien for the costs of abatement of a floodplain ordinance violation and provides a civil penalty.

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 54.012, Local Government Code, to authorize a municipality to bring a civil action for the enforcement of an ordinance for certain purposes, including for the enforcement of an ordinance relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill, or other materials in a designated floodplain and to make nonsubstantive changes.

SECTION 2. Amends Subchapter B, Chapter 54, Local Government Code, by adding Section 54.020, as follows:

Sec. 54.020. ABATEMENT OF FLOODPLAIN VIOLATION IN MUNICIPALITIES; LIEN. (a) Authorizes a municipality, in addition to any necessary and reasonable actions authorized by law, to abate a violation of a floodplain management ordinance by causing the work necessary to bring real property into compliance with the ordinance, including the repair, removal, or demolition of a structure, fill, or other material illegally placed in the area designated as a floodplain, if the municipality gives the owner reasonable notice and opportunity to comply with the ordinance and the owner of the property fails to comply with the ordinance.

(b) Authorizes the municipality to assess the costs incurred by the municipality under Subsection (a) against the property. Provides that the municipality has a lien on the property for the costs incurred and for interest accruing at the annual rate of 10 percent on the amount due until the municipality is paid.

(c) Authorizes the municipality to perfect the lien by filing written notice of the lien with the county clerk of the county in which the property is located. Requires that the notice of the lien be in recordable form and state the name of each property owner, if known, the legal description of the property, and the amount due.

(d) Provides that the municipality's lien is inferior to any previously recorded bona fide mortgage lien attached to the real property to which the municipality's

lien attaches, if the mortgage lien was filed for record before the date the municipality files the notice of lien with the county clerk. Provides that the municipality's lien is superior to all other previously recorded judgment liens.

SECTION 3. Effective date: September 1, 2013.