

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2647
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Intergovernmental Relations
5/14/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Subchapter A (Dangerous Structures), Chapter 214 (Municipal Regulation of Housing and Other Structures), and Subchapter C (Quasi-Judicial Enforcement of Health and Safety Ordinances), Chapter 54 (Enforcement of Municipal Ordinances), Local Government Code, provide municipalities with means to address substandard and dangerous buildings. Cities are authorized to take certain actions such as ordering that dangerous buildings be repaired or demolished, assessing a civil penalty for failure to make repairs, and imposing a lien against the property in the event that the municipality incurs the cost of making ordered repairs or the costs of demolition.

Chapter 214 provides the municipality with certain remedies for enforcing its actions with regard to regulating housing and other structures. For example, if the city allows an owner more than 90 days to make repairs and the owner owns property within the municipality with a value in excess of \$100,000, the city is authorized to require the owner to post a bond or other security. Chapter 214 also specifies that if affected buildings are not vacated, secured, repaired, removed or demolished within the allotted time, the municipality is authorized to perform those actions at its own expense, and in doing so, is authorized to impose a privileged lien against the subject property. Chapter 54 does not specifically include these same enforcement provisions.

C.S.H.B. 2647 amends current law relating to the quasi-judicial enforcement of certain health and safety ordinances.

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 the municipality, in an action under this section, to also bring a claim for civil penalties under Section 54.017 and 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 Section 54.040(a), Local Government Code, as follows:

(a) Provides that an order issued under Section 54.036 (Functions), including any civil penalties assessed under Section 54.036(5) (relating to the authorization of a commission panel to determine the amount and duration of a certain civil penalty), is enforceable in the same manner as provided in Sections 214.001(k) (relating to requiring a municipality to require certain entities to submit certain reports), (m) (relating to authorizing the municipality to vacate, secure, remove, or demolish a building or relocate the occupants under certain conditions), (n) (relating to authorizing the municipality to assess the expenses), and (o) (relating to the lien being a privileged lien subordinate only to tax liens under certain circumstances). Requires that an abstract of judgment be ordered, rather than issued, against all parties found to be the owners of the subject property or in possession of that property.

SECTION 3. 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 certain municipal ordinances, including a municipal ordinance described by Section 54.012(1) (relating to a municipality bringing a civil action for the enforcement of an ordinance for the preservation of public safety), (2) (relating to the preservation of public health), (5) (relating to implementing civil penalties under this subchapter for conduct classified by statute as a Class C misdemeanor), (6) (relating to dangerously damaged or deteriorated structures or improvements), (7) (relating to conditions caused by accumulations of refuse, vegetation, or other matter), or (9) (relating to point source effluent limitations or the discharge of a pollutant, other than from a non-point source, into a sewer system).

(b) Authorizes the court, except as provided by Subsection (c), to appoint as a receiver for the property a nonprofit organization or an individual with a demonstrated record of rehabilitating properties if there are certain findings by the court.

(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) (relating to requirements of the notice) 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; and on a demonstration to the court of an ability and willingness to rehabilitate the property.

SECTION 4. Effective date: September 1, 2009.