

BILL ANALYSIS

Senate Research Center

S.B. 1437
By: West, Royce
Intergovernmental Relations
4/14/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, poor management of both residential and commercial lease property often forces occupants to endure a lengthy process to address violations of municipal codes related to health and safety. Chapter 92 (Residential Tenancies), Property Code, authorizes a residential occupant to "repair and deduct" in such circumstances. The occupant is required to endure the habitability issue for weeks, even months, while certifying multiple notices to the property management. Thereafter, the occupant is required to personally finance the repair of the structure and is reimbursed the cost out of future rent payments. This remedy does not address emergency circumstances nor is it practical for low-income occupants.

Furthermore, Chapter 54 (Enforcement of Municipal Ordinances), Local Government Code, authorizes a municipality to intervene on behalf of an occupant under such circumstances. This is a remote, third-party method that usually results in misdemeanor prosecution in municipal courts. Since most large properties are owned by limited liability partnerships or corporations, service of this criminal conviction may only be made on individuals. Consequently, property management allow such fines to accumulate until the municipality determines that it is worthwhile to file a civil suit. Municipalities are further reluctant to take civil action because such action requires extensive resources. When taken, this action usually results in a lien by the municipality on the property, an injunction on the property owner to make repairs, or a conversion of the entire property into receivership; all such actions require several months of litigation.

As proposed, S.B. 1437 provides an accessible means of legal redress for occupants of substandard structures under conditions that jeopardize the occupant's health and safety. This bill authorizes an occupant to take a health or safety violation directly to a justice of peace court to seek an injunction. This bill also authorizes a property owner to bring the building up to code within the time provided in the original citation. This bill authorizes the occupant to take legal action without the cost of hiring an attorney if the repair is not made. Therefore, this bill reduces the time the occupant must endure the substandard condition. Finally, this bill requires an occupant to receive the permission of a municipality in order to join a suit initiated by the municipality.

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 "occupant."

SECTION 2. Amends Sections 54.012 and 54.013, Local Government Code, as follows:

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

(b) Authorizes an occupant of a structure to join or bring an enforcement action as provided by Section 54.013 to enforce an ordinance relating to conditions that materially affect the health or safety of the occupant.

Sec. 54.013. JURISDICTION; VENUE. (a) Creates this subsection from existing text.

(b) Authorizes an occupant to bring an action authorized by Section 54.012 (b) in the justice court in the precinct where the structure is located, in addition to district court and the county court at law, and to obtain relief authorized by this subchapter (Municipal Health and Safety Ordinances).

SECTION 3. Amends Section 54.016, Local Government Code, as follows:

Sec. 54.016. INJUNCTION. (a) Authorizes the occupant of a structure, 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 a specific injunction against the owner or owner's representative with control over the premises.

(b) Makes a conforming change.

SECTION 4. Amends Section 54.017(a), Local Government Code, to make a conforming change.

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

Sec. 54.018. ACTION FOR REPAIR OR DEMOLITION OF STRUCTURE. (a) Authorizes the municipality or occupant to bring an action to compel the repair of a structure.

(b) Makes nonsubstantive changes.

(c) Makes a conforming change.

(d) Makes conforming changes.

SECTION 6. Effective date: September 1, 2007.