

BILL ANALYSIS

Senate Research Center
83R9142 NC-F

S.B. 1087
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Intergovernmental Relations
3/25/2013
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The City of San Antonio is highly prone to flash floods. Flood events in 1998 and 2002, caused tremendous damage and, in their aftermath, the community invested millions of dollars in storm water management strategies. Under current law, it is not clear whether a city may bring a civil action when enforcing a local ordinance regarding floodplain violations (e.g., non-permitted construction or fill placed in the floodplain). S.B. 1087 protects property owners by clarifying that a city may pursue civil remedies in floodplain violation cases.

As proposed, S.B. 1087 amends current law relating to the authority of a municipality to file a lien for the costs of abatement of a floodplain ordinance violation; providing 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 under certain circumstances, including 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; 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. Provides that the lien is a privileged lien subordinate only to tax liens and liens for street improvements.

(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.

SECTION 3. Effective date: September 1, 2013.