

BILL ANALYSIS

S.B. 399
By: Madla
Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Generally, code enforcement officials will cite the owner of a property for code violations. However, in some cases, code enforcement officials will personally cite employees of property owners or management companies rather than the owner. The citations hold the employee personally liable and in some cases, have resulted in arrest warrants being issued for the employee.

Employees, whether they work for the property owner or a management company, often do not have control over funds that may be needed to bring a property into code compliance and must receive the owner's approval.

While it is appropriate to hold the property owner responsible or liable for violations, it is wrong to hold an onsite employee personally responsible.

Senate Bill No. 399 provides that an employee cannot be held personally liable for code citation if the employee provides code enforcement officials with the name and address of the owner.

RULEMAKING AUTHORITY

It is the opinion of the Committee on Business and Industry that 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 A, Chapter 92, Property Code, by adding Section 92.016, as follows:

Sec. 92.016. LIABILITY OF TENANT FOR GOVERNMENTAL FINES. (a) Defines "governmental entity."

(b) Prohibits a landlord or landlord's manager or agent from charging or seeking reimbursement from the landlord's tenant for the amount of a fine imposed on the landlord by a governmental entity unless the tenant or another occupant of the tenant's dwelling actually caused the damage or other condition on which the fine is based.

SECTION 2. Amends Chapter 250, Local Government Code, by adding Sections 250.003, 250.004, and 250.005, as follows:

Sec. 250.003. PERSONAL LIABILITY OF NONOWNERS. (a) Provides that an individual who is an employee of the owner of real property for which a citation for a violation of a county or municipal rule or ordinance is issued, or of a company that manages the property on behalf of the property owner, is not personally liable for criminal or civil penalties resulting from the violation if the individual provides the property owner's name, street address, and telephone number to the enforcement official who issues the citation or the official's superior.

(b) Provides that this section applies only to a citation for a violation connected with real property for which a political subdivision has issued a certificate of occupancy or a certificate of completion with respect to the construction of improvements on the property.

Provides that this section does not prohibit a municipality or county from issuing a citation relating to the construction or development of a property to an employee or contractor of the property owner or management company.

Sec. 250.004. AGENT FOR SERVICE. Provides that the employee or owner to whom a citation described by Section 250.003 is issued is considered the owner's agent for accepting service of the citation for the violation of the county or municipal rule or ordinance, if the property owner's street address is not in this state. Provides that service of the citation on the agent has the same legal effect as service on the owner for the purpose of fines against the owner or the property, including a warrant or capias.

Sec. 250.005. OTHER REMEDIES UNAFFECTED. Provides that Sections 250.003 and 250.004 do not limit the availability of remedies against a real property owner or real property otherwise provided by law, including fines, closure, injunction, and mandamus.

SECTION 3. (a) Makes application of Section 92.016, Property Code, as added by this Act, prospective.

(b) Makes application of Sections 250.003, 250.004, and 250.005, Local Government Code, as added by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2005.

EFFECTIVE DATE

September 1, 2005, unless the bill receives the super-majority vote in both Houses of the Legislature required in order for it to take immediate effect.