

## **BILL ANALYSIS**

S.B. 1437  
By: West, Royce  
Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

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.

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 court in the precinct where the structure is located to seek an injunction. Therefore, this bill reduces the time the occupant must endure the substandard condition. Finally, this bill requires an occupant to receive the consent of a municipality in order to join a suit initiated by the municipality.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **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 Section 54.012, 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 bring a civil action against the owner or the owner's representative for the enforcement of an ordinance relating to a condition that materially affects the health or safety of certain occupants.

(c) Authorizes an occupant of a structure to join an action under this section that relates to that occupant's structure. Prohibits an occupant from joining an action originally brought by a municipality unless the municipality consents.

SECTION 3. Amends Section 54.013, Local Government Code, as follows:

Sec. 54.013. New heading: JURISDICTION; VENUE; APPEAL. (a) Creates this subsection from existing text. Provides that jurisdiction and venue of an action under this subchapter (Municipal Health and Safety Ordinances) are in the district court or the county court at law of the county in which the municipality or occupant bringing the action is located.

(b) Provides that jurisdiction and venue of an action under this subchapter brought by an occupant is in the justice court in the precinct where the structure is located, in addition to jurisdiction under Subsection (a). Provides that an appeal by the owner or the owner's representative of an order of the justice court under this subchapter stays the effect of any order issued by that court.

SECTION 4. 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) Requires a court, in determining the specific conduct required under Subsection (a)(2), to consider the severity and nature of the violation and the reasonable availability of materials, labor, and utilities.

(c) Redesignated from existing Subsection (b). Makes a conforming change.

SECTION 5. Amends Section 54.018(a), Local Government Code, to authorize the municipality or an occupant of a structure to bring an action to compel the repair of the structure. Makes nonsubstantive changes.

SECTION 6. Amends Subchapter B, Chapter 54, Local Government Code, by adding Section 54.020.

Sec. 54.020. NO EFFECT ON OTHER DUTIES OF OCCUPANT. Provides that this subchapter does not affect any duties or other obligations or responsibilities an occupant has to an owner or the owner's representative, including an obligation to pay rent or other obligations in a lease agreement.

SECTION 7. Effective date: January 1, 2008.

**EFFECTIVE DATE**

January 1, 2008.