

BILL ANALYSIS

S.B. 1444
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current statute discourages potential receivers from undertaking historic rehabilitations by making the receiver wait too long for reimbursement of expenses. As a result, cities often have to demolish historic properties because many nonprofits do not have the funds to take over the property.

S.B. 1444 authorizes a receiver to recover costs more quickly by allowing the receiver to petition a court for a termination of the receivership and a foreclosure of the receivership property after one year. This bill also opens receiverships to all properties, establishes a lien for the receiver's costs, provides expenses and fees, and authorizes the receiver to use the lien as a credit toward the purchase of property at a foreclosure sale.

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 Section 214.003 Local Government Code, by amending Subsections (a), (b), (h), (k), (l), (n), (o), and (p), and adding Subsection (h-1), as follows:

(a) Authorizes a home-rule municipality to bring an action in district court against an owner of property, rather than an owner of residential property, that is not in substantial compliance with certain municipal ordinances.

(b) Makes a conforming change.

(h) Provides that on completion of the restoration of the property to the minimum code standards of the municipality or guidelines for rehabilitating historic property, or before petitioning the court for termination of the receivership under Subsection (1) certain actions may occur.

(1) Requires the receiver to file with the court a full accounting of all costs and expenses incurred in the repairs, including reasonable costs for labor and supervision, all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses;

(2) Requires the property to be restored and any net income to be returned to the owners if the income exceeds the total of the costs and expense of rehabilitation and the receivership fee, rather than exceeds the cost of expense of rehabilitation; and

(3) Authorizes the receiver, if the total of the costs and expenses and the receivership fee exceeds the income received during the receivership, to maintain control of the property until all rehabilitation and maintenance costs and any receivership fee are recovered or until the termination of the receivership under this section, rather than if the costs and expenses exceed the income received during the receivership the receiver is required to maintain control until the time all costs are recovered.

(h-1) Requires the receiver to have a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any receivership fee.

(k) Deletes existing text prohibiting the court from appointing a receiver for any property that is zoned nonresidential and used in a nonresidential character.

(l) Authorizes a receiver appointed by a district court under this section, or the home-rule municipality that filed the action under which the receiver was appointed, to petition the court to terminate the receivership and order the sale of the property after the receiver has been in control of the property for more than one year, rather than three years, if an owner has been served with notice, rather than be identified and served with notices, but has failed to assume control or repay all rehabilitation and maintenance costs and the receivership fee of the receiver. Deletes existing text authorizing a receiver appointed by a district court under this section, or the home-rule municipality that filed the action under which the receiver was appointed, to petition the court to terminate the receivership and order the sale of the property if the receiver has been in control of the property for more than two years and no legal owner has been identified after a diligent search.

(n) Authorizes the court to order the sale of the property if the court finds that the receiver has been in control of the property for more than one year and an owner has failed to repay all rehabilitation and maintenance costs and any receivership fee of the receiver. Deletes existing text authorizing the court to order the sale of the property if the court finds that the receiver has been in control of the property for more than two years and no legal owner has been identified after a diligent search or the receiver has been in control of the property for more than three years.

(o) Authorizes a receiver to bid on the property at the sale and to use a receiver's lien established under Subsection (h-1) as credit towards the purchase.

(p) Requires the court to confirm the sale and order a distribution of the proceeds of the sale in a certain order.

SECTION 2. Makes application of Section 214.003, Local Government Code, as amended by this Act, prospective.

SECTION 3. Effective date: upon passage or September 1, 2007.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.