

BILL ANALYSIS

Senate Research Center

S.B. 1444
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Intergovernmental Relations
4/23/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

As proposed, 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

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 214.003 (a), (b), and (h) through (r), Local Government Code, 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 minimum code standards of the municipality or guidelines for rehabilitating historic property or prior petitioning the court for termination of the receivership under Subsection (m) certain actions may occur.
 - (1) Makes no changes to existing text.
 - (2) Authorizes the receiver to claim as part of the accounting filed under this section a receivership fee of 10 percent calculated from all costs and expenses incurred in the repairs, including reasonable costs for labor and supervision.
 - (3) 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.
 - (4) 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 receivership fees 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.

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

(j) Redesignated from existing Subsection (i).

(k) Redesignated from existing Subsection (j).

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

(m) Redesignated from existing subsection (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) Redesignated from existing Subsection (m).

(o) Redesignated from existing subsection (n). 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. Makes conforming changes.

(p) Redesignated from existing Subsection (o). Authorizes a receiver to bid on the property at the sale and to use a receiver's lien established under Subsection (i) as credit towards the purchase.

(q) Redesignated from existing Subsection (p). Makes a conforming change.

(r) Redesignated from existing Subsection (q).

(s) Redesignated from existing Subsection (r).

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.