

1-1 By: Ellis S.B. No. 352  
1-2 (In the Senate - Filed January 29, 2007; February 21, 2007,  
1-3 read first time and referred to Committee on Intergovernmental  
1-4 Relations; March 22, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 3, Nays 0;  
1-6 March 22, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 352 By: Patrick

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the method of providing notice in the enforcement of  
1-11 certain municipal ordinances involving substandard buildings and  
1-12 conditions.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (a), Section 54.035, Local Government  
1-15 Code, is amended to read as follows:

1-16 (a) Notice of all proceedings before the commission panels  
1-17 must be given:

1-18 (1) by personal delivery, ~~or~~ by certified mail  
1-19 with [7] return receipt requested, or by delivery by the United  
1-20 States Postal Service using signature confirmation service, to the  
1-21 record owners of the affected property, and each holder of a  
1-22 recorded lien against the affected property, as shown by the  
1-23 records in the office of the county clerk of the county in which the  
1-24 affected property is located if the address of the lienholder can be  
1-25 ascertained from the deed of trust establishing the lien and/or  
1-26 other applicable instruments on file in the office of the county  
1-27 clerk; and

1-28 (2) to all unknown owners, by posting a copy of the  
1-29 notice on the front door of each improvement situated on the  
1-30 affected property or as close to the front door as practicable.

1-31 SECTION 2. Subsection (a), Section 54.039, Local Government  
1-32 Code, is amended to read as follows:

1-33 (a) Any owner, lienholder, or mortgagee of record jointly or  
1-34 severally aggrieved by any decision of a commission panel may  
1-35 present a petition to a district court, duly verified, setting  
1-36 forth that the decision is illegal, in whole or in part, and  
1-37 specifying the grounds of the illegality. The petition must be  
1-38 presented to the court within 30 calendar days after the date a copy  
1-39 of the final decision of the commission panel is personally  
1-40 delivered, ~~or~~ mailed by first class mail with [7] certified return  
1-41 receipt requested, or delivered by the United States Postal Service  
1-42 using signature confirmation service, to all persons to whom notice  
1-43 is required to be sent under Section 54.035. The commission panel  
1-44 shall ~~personally~~ deliver or mail that copy promptly after the  
1-45 decision becomes final. In addition, an abbreviated copy of the  
1-46 order shall be published one time in a newspaper of general  
1-47 circulation in the municipality within 10 calendar days after the  
1-48 date of the delivery or mailing of the copy as provided by this  
1-49 subsection, including the street address or legal description of  
1-50 the property; the date of the hearing, a brief statement indicating  
1-51 the results of the order, and instructions stating where a complete  
1-52 copy of the order may be obtained, and, except in a municipality  
1-53 with a population of 1.9 million or more, a copy shall be filed in  
1-54 the office of the municipal secretary or clerk.

1-55 SECTION 3. Subsections (d) and (g), Section 214.001, Local  
1-56 Government Code, are amended to read as follows:

1-57 (d) After the public hearing, if a building is found in  
1-58 violation of standards set out in the ordinance, the municipality  
1-59 may order that the building be vacated, secured, repaired, removed,  
1-60 or demolished by the owner within a reasonable time as provided by  
1-61 this section. The municipality also may order that the occupants be  
1-62 relocated within a reasonable time. If the owner does not take the  
1-63 ordered action within the allotted time, the municipality shall

2-1 make a diligent effort to discover each mortgagee and lienholder  
2-2 having an interest in the building or in the property on which the  
2-3 building is located. The municipality shall personally deliver,  
2-4 [~~or~~] send by certified mail with[7] return receipt requested, or  
2-5 deliver by the United States Postal Service using signature  
2-6 confirmation service, to each identified mortgagee and lienholder a  
2-7 notice containing:

2-8 (1) an identification, which is not required to be a  
2-9 legal description, of the building and the property on which it is  
2-10 located;

2-11 (2) a description of the violation of municipal  
2-12 standards that is present at the building; and

2-13 (3) a statement that the municipality will vacate,  
2-14 secure, remove, or demolish the building or relocate the occupants  
2-15 of the building if the ordered action is not taken within a  
2-16 reasonable time.

2-17 (g) After the hearing, the municipality shall promptly mail  
2-18 by certified mail with[7] return receipt requested, deliver by the  
2-19 United States Postal Service using signature confirmation service,  
2-20 or personally deliver a copy of the order to the owner of the  
2-21 building and to any lienholder or mortgagee of the building. The  
2-22 municipality shall use its best efforts to determine the identity  
2-23 and address of any owner, lienholder, or mortgagee of the building.

2-24 SECTION 4. Subsection (a), Section 214.0012, Local  
2-25 Government Code, is amended to read as follows:

2-26 (a) Any owner, lienholder, or mortgagee of record of  
2-27 property jointly or severally aggrieved by an order of a  
2-28 municipality issued under Section 214.001 may file in district  
2-29 court a verified petition setting forth that the decision is  
2-30 illegal, in whole or in part, and specifying the grounds of the  
2-31 illegality. The petition must be filed by an owner, lienholder, or  
2-32 mortgagee within 30 calendar days after the respective dates a copy  
2-33 of the final decision of the municipality is personally delivered  
2-34 to them, [~~or~~] mailed to them by first class mail with[7] certified  
2-35 return receipt requested, or delivered to them by the United States  
2-36 Postal Service using signature confirmation service, or such  
2-37 decision shall become final as to each of them upon the expiration  
2-38 of each such 30 calendar day period.

2-39 SECTION 5. This Act takes effect immediately if it receives  
2-40 a vote of two-thirds of all the members elected to each house, as  
2-41 provided by Section 39, Article III, Texas Constitution. If this  
2-42 Act does not receive the vote necessary for immediate effect, this  
2-43 Act takes effect September 1, 2007.

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