

By: West

S.B. No. 1437

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of municipal building and safety ordinances by occupants of the buildings; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 54, Local Government Code, is amended by adding Section 54.011 to read as follows:

Sec. 54.011. DEFINITION. In this subchapter, "occupant" means a person who has signed a written lease agreement and has a right to use or occupy a building or other structure under that agreement.

SECTION 2. Section 54.012, Local Government Code, is amended to read as follows:

Sec. 54.012. CIVIL ACTION. (a) A municipality may bring a civil action for the enforcement of an ordinance:

(1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) relating to the preservation of public health or to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water

1 supply for extinguishing fires, or location, design, or width of  
2 entrances or exits;

3 (3) for zoning that provides for the use of land or  
4 classifies a parcel of land according to the municipality's  
5 district classification scheme;

6 (4) establishing criteria for land subdivision or  
7 construction of buildings, including provisions relating to street  
8 width and design, lot size, building width or elevation, setback  
9 requirements, or utility service specifications or requirements;

10 (5) implementing civil penalties under this  
11 subchapter for conduct classified by statute as a Class C  
12 misdemeanor;

13 (6) relating to dangerously damaged or deteriorated  
14 structures or improvements;

15 (7) relating to conditions caused by accumulations of  
16 refuse, vegetation, or other matter that creates breeding and  
17 living places for insects and rodents;

18 (8) relating to the interior configuration, design,  
19 illumination, or visibility of business premises exhibiting for  
20 viewing by customers while on the premises live or mechanically or  
21 electronically displayed entertainment intended to provide sexual  
22 stimulation or sexual gratification; or

23 (9) relating to point source effluent limitations or  
24 the discharge of a pollutant, other than from a non-point source,  
25 into a sewer system, including a sanitary or storm water sewer  
26 system, owned or controlled by the municipality.

27 (b) An occupant of a structure may bring a civil action

1 against the owner or the owner's representative for the enforcement  
2 of an ordinance relating to a condition that materially affects the  
3 health or safety of the occupant, if the occupant:

4 (1) is current on all rental payments under the lease  
5 agreement;

6 (2) has provided written notice to the owner or owner's  
7 representative describing the condition; and

8 (3) has provided the owner a reasonable time to repair  
9 or remedy the condition considering:

10 (A) the severity and nature of the condition; and

11 (B) the reasonable availability of materials,  
12 labor, and utilities.

13 (c) An occupant of a structure may join an action under this  
14 section that relates to that occupant's structure. An occupant may  
15 not join an action originally brought by a municipality unless the  
16 municipality consents.

17 SECTION 3. Section 54.013, Local Government Code, is  
18 amended to read as follows:

19 Sec. 54.013. JURISDICTION; VENUE; APPEAL.

20 (a) Jurisdiction and venue of an action under this subchapter are  
21 in the district court or the county court at law of the county in  
22 which the municipality or occupant bringing the action is located.

23 (b) In addition to jurisdiction under Subsection (a),  
24 jurisdiction and venue of an action under this subchapter brought  
25 by an occupant is in the justice court in the precinct where the  
26 structure is located. An appeal by the owner or the owner's  
27 representative of an order of the justice court under this

1 subchapter stays the effect of any order issued by that court.

2 SECTION 4. Section 54.016, Local Government Code, is  
3 amended to read as follows:

4 Sec. 54.016. INJUNCTION. (a) On a showing of substantial  
5 danger of injury or an adverse health impact to any person or to the  
6 property of any person other than the defendant, the municipality  
7 or an occupant of a structure may obtain against the owner or  
8 owner's representative with control over the premises an injunction  
9 that:

10 (1) prohibits specific conduct that violates the  
11 ordinance; and

12 (2) requires specific conduct that is necessary for  
13 compliance with the ordinance.

14 (b) In determining the specific conduct required under  
15 Subsection (a)(2), a court shall consider the severity and nature  
16 of the violation and the reasonable availability of materials,  
17 labor, and utilities.

18 (c) [~~b~~] It is not necessary for the municipality or  
19 occupant to prove that another adequate remedy or penalty for a  
20 violation does not exist or to show that prosecution in a criminal  
21 action has occurred or has been attempted.

22 SECTION 5. Subsection (a), Section 54.018, Local Government  
23 Code, is amended to read as follows:

24 (a) The municipality or an occupant of a structure may bring  
25 an action to compel the repair of the structure. A municipality may  
26 bring an action to compel the [~~or~~] demolition of a structure or to  
27 obtain approval to remove the structure and recover removal costs.

1           SECTION 6. Subchapter B, Chapter 54, Local Government Code,  
2 is amended by adding Section 54.020 to read as follows:

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

8           SECTION 7. This Act takes effect January 1, 2008.