

By: West

S.B. No. 1437

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the enforcement of municipal building and safety
3 ordinances, including the authorization of certain civil actions
4 and the creation of additional enforcement jurisdiction.

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

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

8 Sec. 54.011. DEFINITION. In this subchapter, "occupant"
9 means a person who has a contractual right to use or occupy a
10 building or other structure.

11 SECTION 2. Sections 54.012 and 54.013, Local Government
12 Code, are amended to read as follows:

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

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

20 (2) relating to the preservation of public health or
21 to the fire safety of a building or other structure or improvement,
22 including provisions relating to materials, types of construction
23 or design, interior configuration, illumination, warning devices,
24 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 join or bring an

1 enforcement action as provided by Section 54.013 to enforce an
2 ordinance relating to conditions that materially affect the health
3 or safety of the occupant.

4 Sec. 54.013. JURISDICTION; VENUE. (a) Jurisdiction and
5 venue of an action under this subchapter are in the district court
6 or the county court at law of the county in which the municipality
7 bringing the action is located.

8 (b) In addition to district court and the county court at
9 law, an occupant may bring an action authorized by Section
10 54.012(b) in the justice court in the precinct where the structure
11 is located and may obtain relief authorized by this subchapter.

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

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

19 (1) prohibits specific conduct that violates the
20 ordinance; and

21 (2) requires specific conduct that is necessary for
22 compliance with the ordinance.

23 (b) It is not necessary for the municipality or occupant to
24 prove that another adequate remedy or penalty for a violation does
25 not exist or to show that prosecution in a criminal action has
26 occurred or has been attempted.

27 SECTION 4. Subsection (a), Section 54.017, Local Government

1 Code, is amended to read as follows:

2 (a) In a suit against the owner or the owner's
3 representative with control over the premises, the municipality or
4 occupant may recover a civil penalty if it proves that:

5 (1) the defendant was actually notified of the
6 provisions of the ordinance; and

7 (2) after the defendant received notice of the
8 ordinance provisions, the defendant committed acts in violation of
9 the ordinance or failed to take action necessary for compliance
10 with the ordinance.

11 SECTION 5. Section 54.018, Local Government Code, is
12 amended to read as follows:

13 Sec. 54.018. ACTION FOR REPAIR OR DEMOLITION OF STRUCTURE.

14 (a) The municipality or occupant may bring an action to compel the
15 repair of a structure.

16 (b) A municipality may bring an action to compel the [or]
17 demolition of a structure or to obtain approval to remove the
18 structure and recover removal costs.

19 (c) [(b)] In an action under this section, the municipality
20 or occupant may also bring a claim for civil penalties under Section
21 54.017.

22 (d) [(c)] The municipality or occupant may file a notice of
23 lis pendens in the office of the county clerk. If the municipality
24 or occupant files the notice, a subsequent purchaser or mortgagee
25 who acquires an interest in the property takes the property subject
26 to the enforcement proceeding and subsequent orders of the court.

27 SECTION 6. This Act takes effect September 1, 2007.