

1-1 By: West S.B. No. 1437  
1-2 (In the Senate - Filed March 8, 2007; March 15, 2007, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; April 23, 2007, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 3, Nays 0;  
1-6 April 23, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1437 By: Patrick

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

1-10 relating to the enforcement of municipal building and safety  
1-11 ordinances by occupants of the buildings; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter B, Chapter 54, Local Government Code,  
1-14 is amended by adding Section 54.011 to read as follows:

1-15 Sec. 54.011. DEFINITION. In this subchapter, "occupant"  
1-16 means a person who has signed a written lease agreement and has a  
1-17 right to use or occupy a building or other structure under that  
1-18 agreement.

1-19 SECTION 2. Section 54.012, Local Government Code, is  
1-20 amended to read as follows:

1-21 Sec. 54.012. CIVIL ACTION. (a) A municipality may bring a  
1-22 civil action for the enforcement of an ordinance:

1-23 (1) for the preservation of public safety, relating to  
1-24 the materials or methods used to construct a building or other  
1-25 structure or improvement, including the foundation, structural  
1-26 elements, electrical wiring or apparatus, plumbing and fixtures,  
1-27 entrances, or exits;

1-28 (2) relating to the preservation of public health or  
1-29 to the fire safety of a building or other structure or improvement,  
1-30 including provisions relating to materials, types of construction  
1-31 or design, interior configuration, illumination, warning devices,  
1-32 sprinklers or other fire suppression devices, availability of water  
1-33 supply for extinguishing fires, or location, design, or width of  
1-34 entrances or exits;

1-35 (3) for zoning that provides for the use of land or  
1-36 classifies a parcel of land according to the municipality's  
1-37 district classification scheme;

1-38 (4) establishing criteria for land subdivision or  
1-39 construction of buildings, including provisions relating to street  
1-40 width and design, lot size, building width or elevation, setback  
1-41 requirements, or utility service specifications or requirements;

1-42 (5) implementing civil penalties under this  
1-43 subchapter for conduct classified by statute as a Class C  
1-44 misdemeanor;

1-45 (6) relating to dangerously damaged or deteriorated  
1-46 structures or improvements;

1-47 (7) relating to conditions caused by accumulations of  
1-48 refuse, vegetation, or other matter that creates breeding and  
1-49 living places for insects and rodents;

1-50 (8) relating to the interior configuration, design,  
1-51 illumination, or visibility of business premises exhibiting for  
1-52 viewing by customers while on the premises live or mechanically or  
1-53 electronically displayed entertainment intended to provide sexual  
1-54 stimulation or sexual gratification; or

1-55 (9) relating to point source effluent limitations or  
1-56 the discharge of a pollutant, other than from a non-point source,  
1-57 into a sewer system, including a sanitary or storm water sewer  
1-58 system, owned or controlled by the municipality.

1-59 (b) An occupant of a structure may bring a civil action  
1-60 against the owner or the owner's representative for the enforcement  
1-61 of an ordinance relating to a condition that materially affects the  
1-62 health or safety of the occupant, if the occupant:

1-63 (1) is current on all rental payments under the lease

2-1 agreement;  
2-2 (2) has provided written notice to the owner or owner's  
2-3 representative describing the condition; and

2-4 (3) has provided the owner a reasonable time to repair  
2-5 or remedy the condition considering:

2-6 (A) the severity and nature of the condition; and  
2-7 (B) the reasonable availability of materials,  
2-8 labor, and utilities.

2-9 (c) An occupant of a structure may join an action under this  
2-10 section that relates to that occupant's structure. An occupant may  
2-11 not join an action originally brought by a municipality unless the  
2-12 municipality consents.

2-13 SECTION 3. Section 54.013, Local Government Code, is  
2-14 amended to read as follows:

2-15 Sec. 54.013. JURISDICTION; VENUE; APPEAL. (a) Jurisdiction  
2-16 and venue of an action under this subchapter are in the district  
2-17 court or the county court at law of the county in which the  
2-18 municipality or occupant bringing the action is located.

2-19 (b) In addition to jurisdiction under Subsection (a),  
2-20 jurisdiction and venue of an action under this subchapter brought  
2-21 by an occupant is in the justice court in the precinct where the  
2-22 structure is located. An appeal by the owner or the owner's  
2-23 representative of an order of the justice court under this  
2-24 subchapter stays the effect of any order issued by that court.

2-25 SECTION 4. Section 54.016, Local Government Code, is  
2-26 amended to read as follows:

2-27 Sec. 54.016. INJUNCTION. (a) On a showing of substantial  
2-28 danger of injury or an adverse health impact to any person or to the  
2-29 property of any person other than the defendant, the municipality  
2-30 or an occupant of a structure may obtain against the owner or  
2-31 owner's representative with control over the premises an injunction  
2-32 that:

2-33 (1) prohibits specific conduct that violates the  
2-34 ordinance; and

2-35 (2) requires specific conduct that is necessary for  
2-36 compliance with the ordinance.

2-37 (b) In determining the specific conduct required under  
2-38 Subsection (a)(2), a court shall consider the severity and nature  
2-39 of the violation and the reasonable availability of materials,  
2-40 labor, and utilities.

2-41 (c) ~~[(b)]~~ It is not necessary for the municipality or  
2-42 occupant to prove that another adequate remedy or penalty for a  
2-43 violation does not exist or to show that prosecution in a criminal  
2-44 action has occurred or has been attempted.

2-45 SECTION 5. Subsection (a), Section 54.018, Local Government  
2-46 Code, is amended to read as follows:

2-47 (a) The municipality or an occupant of a structure may bring  
2-48 an action to compel the repair of the structure. A municipality may  
2-49 bring an action to compel the ~~[or]~~ demolition of a structure or to  
2-50 obtain approval to remove the structure and recover removal costs.

2-51 SECTION 6. Subchapter B, Chapter 54, Local Government Code,  
2-52 is amended by adding Section 54.020 to read as follows:

2-53 Sec. 54.020. NO EFFECT ON OTHER DUTIES OF OCCUPANT. This  
2-54 subchapter does not affect any duties or other obligations or  
2-55 responsibilities an occupant has to an owner or the owner's  
2-56 representative, including an obligation to pay rent or other  
2-57 obligations in a lease agreement.

2-58 SECTION 7. This Act takes effect January 1, 2008.

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