

By: Gallegos

S.B. No. 1444

A BILL TO BE ENTITLED

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AN ACT

relating to the receivership and rehabilitation of certain property.

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

SECTION 1. Section 214.003, Local Government Code, is amended by amending Subsections (a), (b), (h), (k), (l), (n), (o), and (p) and adding Subsection (h-1) to read as follows:

(a) A home-rule municipality may bring an action in district court against an owner of [~~residential~~] property that is not in substantial compliance with the municipal ordinances regarding:

- (1) fire protection;
- (2) structural integrity;
- (3) zoning; or
- (4) disposal of refuse.

(b) Except as provided by Subsection (c), the court may appoint as a receiver for the property a nonprofit organization with a demonstrated record of rehabilitating [~~residential~~] properties if the court finds that:

- (1) the structures on the property are in violation of the standards set forth in Section 214.001(b) and an ordinance described by Subsection (a);
- (2) notice of violation was given to the record owner of the property; and
- (3) a public hearing as required by Section 214.001(d)

1 has been conducted.

2 (h) On the completion of the restoration of [~~to~~] the
3 property to [~~of~~] the minimum code standards of the municipality or
4 guidelines for rehabilitating historic property, or before
5 petitioning a court for termination of the receivership under
6 Subsection (l):

7 (1) the receiver shall file with the court a full
8 accounting of all costs and expenses incurred in the repairs,
9 including reasonable costs for labor and supervision, [~~and~~] all
10 income received from the property, and, at the receiver's
11 discretion, a receivership fee of 10 percent of those costs and
12 expenses;

13 (2) if the income exceeds the total of the cost and
14 expense of rehabilitation and any receivership fee, the
15 rehabilitated property shall be restored to the owners and any net
16 income shall be returned to the owners; and

17 (3) if the total of the costs and expenses and any
18 receivership fee exceeds [~~exceed~~] the income received during the
19 receivership, the receiver may [~~shall~~] maintain control of the
20 property until the time all rehabilitation and maintenance costs
21 and any receivership fee are recovered, or until the receivership
22 is terminated.

23 (h-1) A receiver shall have a lien on the property under
24 receivership for all of the receiver's unreimbursed costs and
25 expenses and any receivership fee.

26 (k) The court may not appoint a receiver for any property
27 that[+]

1 ~~[(1)]~~ is an owner-occupied, single-family residence~~[+~~
2 ~~or~~

3 ~~[(2) is zoned nonresidential and used in a~~
4 ~~nonresidential character].~~

5 (1) A receiver appointed by a district court under this
6 section, or the home-rule municipality that filed the action under
7 which the receiver was appointed, may petition the court to
8 terminate the receivership and order the sale of the property~~[+~~

9 ~~[(1) if the receiver has been in control of the~~
10 ~~property for more than two years and no legal owner has been~~
11 ~~identified after a diligent search; or~~

12 ~~[(2)]~~ after the receiver has been in control of the
13 property for more than one year ~~[three years]~~, if an owner has been
14 ~~[identified and]~~ served with notice ~~[notices]~~ but has failed to
15 assume control or repay all rehabilitation and maintenance costs
16 and any receivership fee of the receiver.

17 (n) The court may order the sale of the property if the court
18 finds that:

19 (1) notice was given to each record owner of the
20 property and each lienholder of record;

21 (2) the receiver has been in control of the property
22 for more than one year ~~[two years and no legal owner has been~~
23 ~~identified after a diligent search, or the receiver has been in~~
24 ~~control of the property for more than three years]~~ and an owner has
25 ~~[been identified but has]~~ failed to repay all rehabilitation and
26 maintenance costs and any receivership fee of the receiver; and

27 (3) no lienholder of record has intervened in the

1 action and offered to repay the costs and any receivership fee of
2 the receiver and assume control of the property.

3 (o) The court shall order the sale to be conducted by the
4 petitioner in the same manner that a sale is conducted under Chapter
5 51, Property Code. If the record owners and lienholders are
6 identified, notice of the date and time of the sale must be sent in
7 the same manner as provided by Chapter 51, Property Code. If the
8 owner cannot be located after due diligence, the owner may be served
9 notice by publication. The receiver may bid on the property at the
10 sale and may use a lien granted under Subsection (h-1) as credit
11 toward the purchase. The petitioner shall make a report of the sale
12 to the court.

13 (p) The court shall confirm the sale and order a
14 distribution of the proceeds of the sale in the following order:

15 (1) court costs;

16 (2) costs and expenses of the receiver, and any lien
17 held by the receiver; and

18 (3) other valid liens.

19 SECTION 2. The changes in law made by this Act to Section
20 214.003, Local Government Code, apply only to a receivership
21 established on or after the effective date of this Act. A
22 receivership established before the effective date of this Act is
23 governed by the law in effect when the receivership was
24 established, and the former law is continued in effect for that
25 purpose.

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2007.