

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. Subsections (a), (b), and (h) through (r), Section 214.003, Local Government Code, are amended 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 to the property of
3 the minimum code standards of the municipality or guidelines for
4 rehabilitating historic property or prior to petitioning the court
5 for termination of the receivership under Subsection (m):

6 (1) the receiver shall file with the court a full
7 accounting of all costs and expenses incurred in the repairs,
8 including reasonable costs for labor and supervision, and all
9 income received from the property;

10 (2) the receiver may claim as a part of the accounting
11 filed under Subdivision (1) a receivership fee of 10 percent
12 calculated from all costs and expenses incurred in the repairs,
13 including reasonable costs for labor and supervision;

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

18 (4) [~~3~~] if the total of the costs and expenses and
19 the receivership fee exceeds [~~exceed~~] the income received during
20 the receivership, the receiver may [~~shall~~] maintain control of the
21 property until the time all rehabilitation and maintenance costs
22 and the receivership fee are recovered or until the termination of
23 the receivership under this section.

24 (i) The receiver shall have a lien on the property under
25 receivership for all of the receiver's unreimbursed costs and
26 expenses and the receivership fee.

27 (j) Any record lienholder may, after initiation of an action

1 by a municipality:

2 (1) intervene in the action; and

3 (2) request appointment as a receiver:

4 (A) under the same conditions as the nonprofit
5 organization; and

6 (B) on a demonstration to the court of an ability
7 and willingness to rehabilitate the property.

8 (k) [~~(j)~~] For the purposes of this section, the interests
9 and rights of an unrecorded lienholder or unrecorded property owner
10 are, in all respects, inferior to the rights of a duly appointed
11 receiver.

12 (1) [~~(k)~~] The court may not appoint a receiver for any
13 property that[+]

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

16 [~~(2) is zoned nonresidential and used in a~~
17 ~~nonresidential character~~].

18 (m) [~~(1)~~] A receiver appointed by a district court under
19 this section, or the home-rule municipality that filed the action
20 under which the receiver was appointed, may petition the court to
21 terminate the receivership and order the sale of the property[+

22 [~~(1) if the receiver has been in control of the~~
23 ~~property for more than two years and no legal owner has been~~
24 ~~identified after a diligent search, or~~

25 [~~(2)~~] after the receiver has been in control of the
26 property for more than one year [~~three years~~], if an owner has been
27 [~~identified and~~] served with notice [~~notices~~] but has failed to

1 assume control or repay all rehabilitation and maintenance costs
2 and the receivership fee of the receiver.

3 (n) [~~(m)~~] In the action, the record owners and any
4 lienholders of record of the property shall be served with personal
5 notice of the proceedings or, if not found after due diligence, may
6 be served by publication. Actual service or service by publication
7 on all record owners and lienholders of record constitutes notice
8 to all unrecorded owners and lienholders.

9 (o) [~~(n)~~] The court may order the sale of the property if
10 the court finds that:

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

13 (2) [~~the receiver has been in control of the property~~
14 ~~for more than two years and no legal owner has been identified after~~
15 ~~a diligent search, or~~] the receiver has been in control of the
16 property for more than one year [~~three years~~] and an owner [~~has been~~
17 ~~identified but~~] has failed to repay all rehabilitation and
18 maintenance costs and the receivership fee of the receiver; and

19 (3) no lienholder of record has intervened in the
20 action and offered to repay the costs and receivership fee of the
21 receiver and assume control of the property.

22 (p) [~~(o)~~] The court shall order the sale to be conducted by
23 the petitioner in the same manner that a sale is conducted under
24 Chapter 51, Property Code. If the record owners and lienholders are
25 identified, notice of the date and time of the sale must be sent in
26 the same manner as provided by Chapter 51, Property Code. If the
27 owner cannot be located after due diligence, the owner may be served

1 notice by publication. The receiver may bid on the property at the
2 sale and may use a receiver's lien established under Subsection (i)
3 as credit towards the purchase. The petitioner shall make a report
4 of the sale to the court.

5 (g) [~~(p)~~] The court shall confirm the sale and order a
6 distribution of the proceeds of the sale in the following order:

7 (1) court costs;

8 (2) costs and expenses of the receiver and any
9 receiver's lien established under Subsection (i); and

10 (3) valid liens.

11 (r) [~~(q)~~] Any remaining sums must be paid to the owner. If
12 the owner is not identified or cannot be located, the court shall
13 order the remaining sums to be deposited in an interest-bearing
14 account with the district clerk's office in the district in which
15 the action is pending, and the clerk shall hold the funds as
16 provided by other law.

17 (s) [~~(r)~~] After the proceeds are distributed, the court
18 shall award fee title to the purchaser subject to any recorded bona
19 fide liens that were not paid by the proceeds of the sale.

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

27 SECTION 3. This Act takes effect immediately if it receives

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2007.