

1-1 By: Gallegos S.B. No. 1444
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; May 3, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 May 3, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1444 By: Gallegos

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

1-10 relating to the receivership and rehabilitation of certain
1-11 property.

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

1-13 SECTION 1. Section 214.003, Local Government Code, is
1-14 amended by amending Subsections (a), (b), (h), (k), (l), (n), (o),
1-15 and (p) and adding Subsection (h-1) to read as follows:

1-16 (a) A home-rule municipality may bring an action in district
1-17 court against an owner of ~~[residential]~~ property that is not in
1-18 substantial compliance with the municipal ordinances regarding:

- 1-19 (1) fire protection;
- 1-20 (2) structural integrity;
- 1-21 (3) zoning; or
- 1-22 (4) disposal of refuse.

1-23 (b) Except as provided by Subsection (c), the court may
1-24 appoint as a receiver for the property a nonprofit organization
1-25 with a demonstrated record of rehabilitating ~~[residential]~~
1-26 properties if the court finds that:

1-27 (1) the structures on the property are in violation of
1-28 the standards set forth in Section 214.001(b) and an ordinance
1-29 described by Subsection (a);

1-30 (2) notice of violation was given to the record owner
1-31 of the property; and

1-32 (3) a public hearing as required by Section 214.001(d)
1-33 has been conducted.

1-34 (h) On the completion of the restoration of ~~[to]~~ the
1-35 property to ~~[of]~~ the minimum code standards of the municipality or
1-36 guidelines for rehabilitating historic property, or before
1-37 petitioning a court for termination of the receivership under
1-38 Subsection (1):

1-39 (1) the receiver shall file with the court a full
1-40 accounting of all costs and expenses incurred in the repairs,
1-41 including reasonable costs for labor and supervision, ~~[and]~~ all
1-42 income received from the property, and, at the receiver's
1-43 discretion, a receivership fee of 10 percent of those costs and
1-44 expenses;

1-45 (2) if the income exceeds the total of the cost and
1-46 expense of rehabilitation and any receivership fee, the
1-47 rehabilitated property shall be restored to the owners and any net
1-48 income shall be returned to the owners; and

1-49 (3) if the total of the costs and expenses and any
1-50 receivership fee exceeds ~~[exceeds]~~ the income received during the
1-51 receivership, the receiver may ~~[shall]~~ maintain control of the
1-52 property until the time all rehabilitation and maintenance costs
1-53 and any receivership fee are recovered, or until the receivership
1-54 is terminated.

1-55 (h-1) A receiver shall have a lien on the property under
1-56 receivership for all of the receiver's unreimbursed costs and
1-57 expenses and any receivership fee.

1-58 (k) The court may not appoint a receiver for any property
1-59 that ~~[+]~~

1-60 ~~[(1)]~~ is an owner-occupied, single-family residence ~~[+]~~
1-61 ~~or~~

1-62 ~~[(2) is zoned nonresidential and used in a~~
1-63 ~~nonresidential character].~~

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

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

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

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

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

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

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

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

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

(1) court costs;

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

(3) other valid liens.

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

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

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