

BILL ANALYSIS

Senate Research Center

H.B. 3128
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Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, when a city files suit for the authority to demolish a large condominium complex, the city must sue and serve each defendant. Such defendants are usually individual property owners. Very often, this process is time consuming, expensive, and allows the substandard and often dangerous conditions to continue while the city struggles to obtain service on each owner. Without a mechanism allowing for the efficient and timely service of owners of condominium complexes, a city's ability to act for the health and safety of its citizens is compromised.

The bill affects only cities with a population of more than 1.9 million and provides a vehicle whereby condominiums that are considered substandard may be served in a more expeditious manner in order to abate the substandard conditions in a timely manner.

H.B. 3128 amends current law relating to service of process on condominium unit owners and condominium unit owners' associations in certain municipalities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 82.002(c), Property Code, to include Section 82.118 in the sections that apply to a condominium in this state for which the instrument that establishes property under a condominium regime (declaration) was recorded before January 1, 1994.

SECTION 2. Amends Subchapter C, Chapter 82, Property Code, by adding Section 82.118, as follows:

Sec. 82.118. SERVICE OF PROCESS ON UNIT OWNERS. (a) Authorizes a unit owner of a condominium located wholly or partly in a municipality with a population of more than 1.9 million to be served with process by the municipality or the municipality's agent for a judicial or administrative proceeding initiated by the municipality and directly related to the unit owner's property interest in the condominium by serving the unit owner at the unit owner's last known address, according to the records of the appraisal district in which the condominium is located, by any means permitted by Rule 21a (Methods of Service), Texas Rules of Civil Procedure.

(b) Prohibits a unit owner, notwithstanding Subsection (a), from offering proof in the judicial or administrative proceeding, or in a subsequent related proceeding, that otherwise proper service by mail of the notice was not received not later than three days after the date the notice was deposited in a post office or official depository under the care and custody of the United States Postal Service (postal service).

SECTION 3. Amends Section 82.153(a), Property Code, to require that a condominium information statement contain or accurately disclose certain information, including for a condominium located wholly or partly in a municipality with a population of more than 1.9 million a statement that a unit owner, as an alternative to personal service, is authorized to be served with process by the municipality or the municipality's agent for a judicial or

administrative proceeding initiated by the municipality and directly related to the unit owner's property interest in the condominium by serving the unit owner at the unit owner's last known address, according to the records of the appraisal district in which the condominium is located, by any means permitted by Rule 21a, Texas Rules of Civil Procedure; is required to notify the appraisal district of a change in the unit owner's mailing address; and is prohibited from offering proof in the judicial or administrative proceeding, or in a subsequent related proceeding, that otherwise proper service by mail of the notice was not received not later than three days after the date the notice was deposited in a post office or official depository under the care and custody of the postal service.

SECTION 4. Amends Section 54.035, Local Government Code, by amending Subsections (a) and (d)-(f) and adding Subsections (a-1) and (a-2), as follows:

(a) Requires that notice of all proceedings before the Building and Standards Commission (commission) panels, except as provided by Subsections (a-1) and (a-2), be given by certain means to the record owners of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments, rather than the lien and/or other applicable instruments, on file in the office of the county clerk, and to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable.

(a-1) Requires that notice to a condominium association of a proceeding before a commission panel relating to a condominium, as defined by Section 81.002 (Definitions) or 82.003 (Definitions), Property Code, located wholly or partly in a municipality with a population of more than 1.9 million be served by personal service, by certified mail, return receipt requested, or by the postal service using signature confirmation service, to the registered agent of the unit owners' association.

(a-2) Requires that notice to an owner of a unit of a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million be given in accordance with Section 82.118, Property Code.

(d) Requires a municipality to exercise due diligence to determine the identity and address of a property owner, lienholder, or registered agent to whom the municipality is required to give notice. Makes a nonsubstantive change.

(e) Provides that a municipality exercises due diligence in determining the identity and address of a property owner, lienholder, or registered agent when it follows the procedures for service under Section 82.118, Property Code, or searches certain records. Makes conforming changes.

(f) Makes conforming changes.

SECTION 5. Amends Section 214.001, Local Government Code, by amending Subsections (b) and (r) and adding Subsection (b-1), as follows:

(b) Sets forth the requirements of the ordinance regarding a substandard building, including to provide for giving proper notice, subject to Subsection (b-1), to the owner of a building.

(b-1) Provides that for a condominium, as defined by Section 81.002 or 82.003, Property Code, located wholly or partly in a municipality with a population of more than 1.9 million, notice to a unit owner in accordance with Section 82.118, Property Code, and notice to the registered agent for the unit owners' association under Section 54.035(a-1) satisfy the notice requirements under this section.

(r) Makes conforming changes.

SECTION 6. Effective date: September 1, 2009.