

By: Bohac

H.B. No. 2350

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain municipalities to require trust accounts for certain commercial buildings; providing a criminal penalty.

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

SECTION 1. Chapter 214, Local Government Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. TRUST ACCOUNTS FOR CERTAIN COMMERCIAL BUILDINGS IN CERTAIN MUNICIPALITIES

Sec. 214.251. DEFINITIONS. In this subchapter, "commercial" and "International Building Code" have the meanings assigned by Section 214.211.

Sec. 214.252. ORDINANCE AUTHORIZING TRUST ORDER. A municipality located in a county with a population of 3.3 million or more by ordinance may authorize a municipal official to issue a trust order in writing to the owner of a commercial building to establish a trust account for the building if the official finds that the building:

(1) is not in compliance with the International Building Code, as that code may have been amended by the municipality; and

(2) constitutes an immediate hazard to human life or to property.

Sec. 214.253. TRUST ACCOUNT. (a) An ordinance under this

1 subchapter may require an owner subject to a trust order to
2 establish an account insured by the Federal Deposit Insurance
3 Corporation at a financial institution with retail operations in
4 the municipality or elsewhere in this state.

5 (b) The ordinance may require the owner to deposit all rent
6 paid for use of the building into the trust account and prohibit the
7 owner from withdrawing funds from the trust account except to make
8 payments in the ordinary course of business to:

9 (1) a taxing authority to pay ad valorem taxes
10 assessed against the real property on which the building is
11 located;

12 (2) the financial institution at which the trust
13 account is maintained to pay fees or charges reasonable and
14 necessary to maintain the account;

15 (3) any supplier of electricity, natural gas, water,
16 or garbage removal services directly to the building;

17 (4) the holder of debt secured by an enforceable lien
18 against the building or against the property on which the building
19 is located, unless the holder is an insider, as that term is defined
20 by Section 24.002, Business & Commerce Code, of the owner; or

21 (5) a person or entity that has supplied goods or
22 services reasonably necessary to bring the building into compliance
23 with the International Building Code, as that code may have been
24 amended by the municipality.

25 Sec. 214.254. MONTHLY ACCOUNTING. An ordinance under this
26 subchapter may require the owner of a building subject to a trust
27 order to submit to the municipal official a monthly accounting

1 sworn to by the owner that:

2 (1) provides all information reasonably necessary to
3 identify the trust account and the persons authorized to withdraw
4 funds from the account;

5 (2) states the total amount of rent received for use of
6 the building during the period covered by the accounting;

7 (3) states that:

8 (A) all rent received for use of the building
9 during the period covered by the accounting has been deposited into
10 the trust account;

11 (B) no ad valorem tax assessed against the real
12 property on which the building is located is delinquent; and

13 (C) no payment to any entity that has supplied
14 electricity, natural gas, water, or garbage removal services
15 directly to the building is overdue by more than 30 days; and

16 (4) describes the disbursement of all funds from the
17 trust account during the period covered by the accounting by date,
18 amount, purpose, recipient's name, and recipient's mailing and
19 physical addresses.

20 Sec. 214.255. CLOSING OF TRUST ACCOUNT. (a) An ordinance
21 adopted under this subchapter may provide that the owner may close
22 the trust account only after:

23 (1) the municipal official has stated in writing that
24 the building has been brought into compliance with the
25 International Building Code, as that code may have been amended by
26 the municipality; and

27 (2) the owner has submitted to the municipal official

1 a written statement sworn to by the owner that no payment to any
2 supplier of electricity, natural gas, water, or garbage removal
3 services directly to the building is overdue by more than 30 days.

4 (b) The ordinance may also provide that, not later than the
5 15th day after the date the owner has closed the trust account, the
6 owner must submit to the municipal official a written statement
7 sworn to by the owner describing the final disbursement of all funds
8 from the trust account by date, amount, purpose, recipient's name,
9 and recipient's mailing and physical addresses.

10 Sec. 214.256. OFFENSE. (a) An owner of a building commits
11 an offense if the owner violates an ordinance adopted under this
12 subchapter.

13 (b) An offense under this section is a Class C misdemeanor.

14 (c) Each day the violation continues constitutes a separate
15 offense.

16 (d) Section 3.04(a), Penal Code, does not apply to two or
17 more offenses consolidated or joined for trial under Section 3.02,
18 Penal Code, if each of the offenses is:

19 (1) for the violation of an ordinance adopted under
20 this subchapter;

21 (2) punishable by fine only; and

22 (3) tried in a municipal court, regardless of whether
23 the court is a municipal court of record.

24 SECTION 2. This Act takes effect January 1, 2010.