

By: West

S.B. No. 1448

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of municipal building and safety ordinances by tenants of buildings; providing civil penalties.

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

SECTION 1. Subchapter B, Chapter 54, Local Government Code, is amended by adding Section 54.011 to read as follows:

Sec. 54.011. DEFINITION. In this subchapter, "tenant" means a person who is authorized by a lease to occupy a dwelling, building, or other structure to the exclusion of others.

SECTION 2. Section 54.012, Local Government Code, is amended to read as follows:

Sec. 54.012. CIVIL ACTION. (a) A municipality may bring a civil action for the enforcement of an ordinance:

(1) for the preservation of public safety, relating to the materials or methods used to construct a building or other structure or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) relating to the preservation of public health or to the fire safety of a building or other structure or improvement, including provisions relating to materials, types of construction or design, interior configuration, illumination, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of

1 entrances or exits;

2 (3) for zoning that provides for the use of land or
3 classifies a parcel of land according to the municipality's
4 district classification scheme;

5 (4) establishing criteria for land subdivision or
6 construction of buildings, including provisions relating to street
7 width and design, lot size, building width or elevation, setback
8 requirements, or utility service specifications or requirements;

9 (5) implementing civil penalties under this
10 subchapter for conduct classified by statute as a Class C
11 misdemeanor;

12 (6) relating to dangerously damaged or deteriorated
13 structures or improvements;

14 (7) relating to conditions caused by accumulations of
15 refuse, vegetation, or other matter that creates breeding and
16 living places for insects and rodents;

17 (8) relating to the interior configuration, design,
18 illumination, or visibility of business premises exhibiting for
19 viewing by customers while on the premises live or mechanically or
20 electronically displayed entertainment intended to provide sexual
21 stimulation or sexual gratification; or

22 (9) relating to point source effluent limitations or
23 the discharge of a pollutant, other than from a non-point source,
24 into a sewer system, including a sanitary or storm water sewer
25 system, owned or controlled by the municipality.

26 (b) A tenant may bring a civil action against an owner of
27 real property to seek a remedy for an ordinance violation relating

1 to a condition that materially affects the health or safety of an
2 ordinary tenant, if the tenant:

3 (1) has paid, deposited, or tendered all rental
4 payments owed under the lease agreement;

5 (2) has provided written notice to the owner or the
6 owner's representative describing the condition; and

7 (3) has provided the owner a reasonable amount of time
8 to repair or remedy the condition considering:

9 (A) the severity and nature of a condition that
10 could impact an ordinary tenant; and

11 (B) the reasonable availability of materials,
12 labor, and utilities to repair or remedy the condition.

13 (c) A tenant may join an action under this section that
14 relates to the tenant's dwelling, building, or structure. A tenant
15 may not join an action originally brought by a municipality unless
16 the municipality consents.

17 (d) If a tenant files a suit under this subchapter in bad
18 faith, the owner may recover from the tenant a civil penalty of one
19 month's rent plus \$500, court costs, and reasonable attorney's
20 fees. If the tenant's rent payment to the owner is subsidized in
21 whole or in part by a governmental entity, the civil penalty granted
22 under this section shall reflect the fair market rent of the
23 dwelling plus \$500.

24 SECTION 3. Subchapter B, Chapter 54, Local Government Code,
25 is amended by amending Section 54.013 and adding Section 54.0131 to
26 read as follows:

27 Sec. 54.013. JURISDICTION; VENUE. (a) Jurisdiction and

1 venue of an action under this subchapter are in a a ~~[the]~~ district
2 court, ~~[or the]~~ county court at law, or justice court of the county
3 in which the conduct has occurred or is occurring or the condition
4 or structure ~~[municipality bringing the action]~~ is located.

5 Sec. 54.0131. VENUE; HEARING; APPEAL IN JUSTICE COURT.

6 (a) Venue of an action relating to a structure brought in a justice
7 court under this subchapter is the precinct of the county where the
8 structure is located.

9 (b) Unless an emergency exists, the hearing on an action
10 brought in justice court under Section 54.012(b) shall be held not
11 less than six nor more than 10 calendar days after the action is
12 brought.

13 (c) At the conclusion of the hearing, the justice court
14 shall either grant or deny permanent injunctive relief as
15 appropriate based upon the evidence presented at the hearing.

16 (d) Before the justice court grants permanent injunctive
17 relief, there must be a finding that the evidence establishes a
18 violation of an ordinance.

19 (e) Either party may appeal the judgment of the justice
20 court as in other civil cases. An appeal of a justice court
21 judgment takes precedence in county court and may be held at any
22 time after the eighth day after the date the transcript is filed in
23 the county court. The perfection of an appeal to county court by an
24 owner of real property stays the effect of the judgment without the
25 necessity of posting a supersedeas bond.

26 SECTION 4. Section 54.016, Local Government Code, is
27 amended to read as follows:

1 Sec. 54.016. INJUNCTION. (a) On a showing of substantial
2 danger of injury or an adverse health impact to any person or to the
3 property of any person other than the defendant, the municipality
4 or a tenant may obtain against the owner or owner's representative
5 with control over the premises an injunction that:

6 (1) prohibits specific conduct that violates the
7 ordinance; and

8 (2) requires specific conduct that is necessary for
9 compliance with the ordinance.

10 (b) In determining the specific conduct required under
11 Subsection (a)(2), a court shall consider the severity and nature
12 of the violation and the reasonable availability of materials,
13 labor, and utilities.

14 (c) It is not necessary for the municipality or tenant to
15 prove that another adequate remedy or penalty for a violation does
16 not exist or to show that prosecution in a criminal action has
17 occurred or has been attempted.

18 (d) A justice court may only require the owner to repair or
19 remedy the condition.

20 SECTION 5. Subsection (a), Section 54.018, Local Government
21 Code, is amended to read as follows:

22 (a) The municipality or a tenant may bring an action to
23 compel the repair of a structure. A municipality may bring an
24 action to compel the [~~or~~] demolition of a structure or to obtain
25 approval to remove the structure and recover removal costs.

26 SECTION 6. Subchapter B, Chapter 54, Local Government Code,
27 is amended by adding Section 54.020 to read as follows:

1 Sec. 54.020. NO EFFECT ON OTHER DUTIES OF TENANT. This
2 subchapter does not affect any duties or other obligations or
3 responsibilities a tenant has to an owner or the owner's
4 representative, including an obligation to pay rent or other
5 obligations of the lease agreement.

6 SECTION 7. This Act takes effect January 1, 2010.