

By: Campbell

S.B. No. 1087

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of a municipality to file a lien for the  
3 costs of abatement of a floodplain ordinance violation; providing a  
4 civil penalty.

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

6 SECTION 1. Section 54.012, Local Government Code, is  
7 amended to read as follows:

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

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

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

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

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

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

8           (6) relating to dangerously damaged or deteriorated  
9 structures or improvements;

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

13          (8) relating to the interior configuration, design,  
14 illumination, or visibility of business premises exhibiting for  
15 viewing by customers while on the premises live or mechanically or  
16 electronically displayed entertainment intended to provide sexual  
17 stimulation or sexual gratification; ~~[or]~~

18          (9) relating to point source effluent limitations or  
19 the discharge of a pollutant, other than from a non-point source,  
20 into a sewer system, including a sanitary or storm water sewer  
21 system, owned or controlled by the municipality; or

22          (10) relating to floodplain control and  
23 administration, including an ordinance regulating the placement of  
24 a structure, fill, or other materials in a designated floodplain.

25          SECTION 2. Subchapter B, Chapter 54, Local Government Code,  
26 is amended by adding Section 54.020 to read as follows:

27          Sec. 54.020. ABATEMENT OF FLOODPLAIN VIOLATION; LIEN. (a)

1 In addition to any necessary and reasonable actions authorized by  
2 law, a municipality may abate a violation of a floodplain  
3 management ordinance by causing the work necessary to bring real  
4 property into compliance with the ordinance, including the repair,  
5 removal, or demolition of a structure, fill, or other material  
6 illegally placed in the area designated as a floodplain, if:

7 (1) the municipality gives the owner reasonable notice  
8 and opportunity to comply with the ordinance; and

9 (2) the owner of the property fails to comply with the  
10 ordinance.

11 (b) The municipality may assess the costs incurred by the  
12 municipality under Subsection (a) against the property. The  
13 municipality has a lien on the property for the costs incurred and  
14 for interest accruing at the annual rate of 10 percent on the amount  
15 due until the municipality is paid. The lien is a privileged lien  
16 subordinate only to tax liens and liens for street improvements.

17 (c) The municipality may perfect the lien by filing written  
18 notice of the lien with the county clerk of the county in which the  
19 property is located. The notice of lien must be in recordable form  
20 and must state the name of each property owner, if known, the legal  
21 description of the property, and the amount due.

22 SECTION 3. This Act takes effect September 1, 2013.