

1-1 By: Campbell S.B. No. 1087  
1-2 (In the Senate - Filed March 5, 2013; March 12, 2013, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; April 29, 2013, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 April 29, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Hinojosa	X		
1-10	Nichols	X		
1-11	Garcia	X		
1-12	Paxton	X		
1-13	Taylor	X		

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 1087 By: Garcia

1-15 A BILL TO BE ENTITLED  
1-16 AN ACT

1-17 relating to the authority of certain municipalities to file a lien  
1-18 for the costs of abatement of a floodplain ordinance violation;  
1-19 providing a civil penalty.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 54.012, Local Government Code, is  
1-22 amended to read as follows:

1-23 Sec. 54.012. CIVIL ACTION. (a) A municipality may bring a  
1-24 civil action for the enforcement of an ordinance:

1-25 (1) for the preservation of public safety, relating to  
1-26 the materials or methods used to construct a building or other  
1-27 structure or improvement, including the foundation, structural  
1-28 elements, electrical wiring or apparatus, plumbing and fixtures,  
1-29 entrances, or exits;

1-30 (2) relating to the preservation of public health or  
1-31 to the fire safety of a building or other structure or improvement,  
1-32 including provisions relating to materials, types of construction  
1-33 or design, interior configuration, illumination, warning devices,  
1-34 sprinklers or other fire suppression devices, availability of water  
1-35 supply for extinguishing fires, or location, design, or width of  
1-36 entrances or exits;

1-37 (3) for zoning that provides for the use of land or  
1-38 classifies a parcel of land according to the municipality's  
1-39 district classification scheme;

1-40 (4) establishing criteria for land subdivision or  
1-41 construction of buildings, including provisions relating to street  
1-42 width and design, lot size, building width or elevation, setback  
1-43 requirements, or utility service specifications or requirements;

1-44 (5) implementing civil penalties under this  
1-45 subchapter for conduct classified by statute as a Class C  
1-46 misdemeanor;

1-47 (6) relating to dangerously damaged or deteriorated  
1-48 structures or improvements;

1-49 (7) relating to conditions caused by accumulations of  
1-50 refuse, vegetation, or other matter that creates breeding and  
1-51 living places for insects and rodents;

1-52 (8) relating to the interior configuration, design,  
1-53 illumination, or visibility of business premises exhibiting for  
1-54 viewing by customers while on the premises live or mechanically or  
1-55 electronically displayed entertainment intended to provide sexual  
1-56 stimulation or sexual gratification; or

1-57 (9) relating to point source effluent limitations or  
1-58 the discharge of a pollutant, other than from a non-point source,  
1-59 into a sewer system, including a sanitary or storm water sewer  
1-60 system, owned or controlled by the municipality.

2-1 (b) A municipality that contains more than 75 percent of the  
2-2 population of a county with a population of 1.5 million or more may  
2-3 bring a civil action for the enforcement of an ordinance relating to  
2-4 floodplain control and administration, including an ordinance  
2-5 regulating the placement of a structure, fill, or other materials  
2-6 in a designated floodplain.

2-7 SECTION 2. Subchapter B, Chapter 54, Local Government Code,  
2-8 is amended by adding Section 54.020 to read as follows:

2-9 Sec. 54.020. ABATEMENT OF FLOODPLAIN VIOLATION IN CERTAIN  
2-10 MUNICIPALITIES; LIEN. (a) This section applies only to a  
2-11 municipality that contains more than 75 percent of the population  
2-12 of a county with a population of 1.5 million or more.

2-13 (b) In addition to any necessary and reasonable actions  
2-14 authorized by law, a municipality may abate a violation of a  
2-15 floodplain management ordinance by causing the work necessary to  
2-16 bring real property into compliance with the ordinance, including  
2-17 the repair, removal, or demolition of a structure, fill, or other  
2-18 material illegally placed in the area designated as a floodplain,  
2-19 if:

2-20 (1) the municipality gives the owner reasonable notice  
2-21 and opportunity to comply with the ordinance; and

2-22 (2) the owner of the property fails to comply with the  
2-23 ordinance.

2-24 (c) The municipality may assess the costs incurred by the  
2-25 municipality under Subsection (b) against the property. The  
2-26 municipality has a lien on the property for the costs incurred and  
2-27 for interest accruing at the annual rate of 10 percent on the amount  
2-28 due until the municipality is paid.

2-29 (d) The municipality may perfect the lien by filing written  
2-30 notice of the lien with the county clerk of the county in which the  
2-31 property is located. The notice of lien must be in recordable form  
2-32 and must state the name of each property owner, if known, the legal  
2-33 description of the property, and the amount due.

2-34 (e) The municipality's lien is inferior to any previously  
2-35 recorded bona fide mortgage lien attached to the real property to  
2-36 which the municipality's lien attaches, if the mortgage lien was  
2-37 filed for record before the date the municipality files the notice  
2-38 of lien with the county clerk. The municipality's lien is superior  
2-39 to all other previously recorded judgment liens.

2-40 SECTION 3. This Act takes effect September 1, 2013.

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