By:  Miles S.B. No. 504

(In the Senate - Filed January 28, 2021; March 9, 2021, read first time and referred to Committee on Local Government; April 27, 2021, reported favorably by the following vote: Yeas 6, Nays 1; April 27, 2021, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Bettencourt       X

Menéndez                   X

Eckhardt          X

Gutierrez                  X

Hall              X

Nichols           X

Paxton                X

Springer          X

Zaffirini         X

A BILL TO BE ENTITLED

AN ACT

relating to authority of a county fire marshal to inspect group homes and assisted living facilities; authorizing a fee; creating a criminal offense.

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

SECTION 1.  Subchapter B, Chapter 352, Local Government Code, is amended by adding Section 352.0165 to read as follows:

Sec. 352.0165.  INSPECTION OF GROUP HOMES AND ASSISTED LIVING FACILITIES; FEE. (a) In this section:

(1)  "Assisted living facility" means a facility licensed under Chapter 247, Health and Safety Code.

(2)  "Group home" means an establishment:

(A)  in which three or more individuals who are unrelated to the owner or operator of the establishment reside;

(B)  that provides residential care services to residents; and

(C)  that receives payment or other compensation from a local, state, or federal governmental entity for providing residential care services to a resident.

(3)  "Residential care services" means shelter, protection, meals, health care, mobility assistance, and personal care services, including bathing, dressing, and eating.

(b)  On the complaint of any person, the county fire marshal, at any reasonable time, may enter:

(1)  a building in the county in which a group home or assisted living facility is operated; and

(2)  the premises of a building described by Subdivision (1).

(c)  The county fire marshal shall order the removal of a building in which a group home or assisted living facility is located, the removal of a structure located on the premises of a building in which a group home or assisted living facility is located, or other remedial action if the marshal finds that:

(1)  the building or structure, because of lack of repair, age, dilapidated condition, or other reason, is susceptible to fire and is so located or occupied that fire would endanger persons or property in the building or structure or on the premises of the building or structure;

(2)  a dangerous condition is created by:

(A)  an improper arrangement of stoves, ranges, furnaces, or other heating appliances, including chimneys, flues, and pipes with which they are connected, or by their lighting systems or devices; or

(B)  the manner of storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, or combustible, flammable, or refuse materials; or

(3)  any other condition exists that is dangerous or is liable to cause or promote fire or create danger for firefighters, occupants, or other buildings or structures.

(d)  The person to whom an order under Subsection (c) is directed shall immediately comply with the order. The marshal may, if necessary, apply to a court of competent jurisdiction for writs or orders necessary to enforce this section, and the court may grant appropriate relief. The marshal is not required to give a bond.

(e)  The commissioners court of a county may adopt any appropriate standard developed by a nationally recognized standards-making association under which the county fire marshal may enforce this section, except that standards adopted under this subsection do not apply in a municipality that has adopted fire protection ordinances.

(f)  The commissioners court of a county shall prescribe a reasonable fee for an inspection performed by the county fire marshal that may be charged to a property owner or occupant who requests the inspection, as the commissioners court considers appropriate. In prescribing the fee, the commissioners court shall consider the overall cost to the marshal to perform the inspections, including the approximate amount of time the staff of the marshal needs to perform an inspection, travel costs, and other expenses.

SECTION 2.  Section 352.022, Local Government Code, is amended to read as follows:

Sec. 352.022.  PENALTY FOR FAILURE TO COMPLY WITH ORDER. An owner or occupant who is subject to an order issued under Section 352.016 or 352.0165 commits an offense if that person fails to comply with the order. Each refusal to comply is a separate offense. The offense is a Class B misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted two or more times under this section, in which event the offense is a state jail felony.

SECTION 3.  Section 352.022, Local Government Code, as amended by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4.  This Act takes effect September 1, 2021.

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