

- SUBJECT:** Minimum habitability standards for apartments in Houston
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 8 ayes — Deshotel, Elkins, England, Gattis, Giddings, S. Miller, Quintanilla, S. Turner
- 0 nays
- 3 absent — Christian, Keffer, Orr
- WITNESSES:** For — Andy Icken, City of Houston; David Mintz, Texas Apartment Association
- Against — None
- DIGEST:** HB 1819 would require the city of Houston, as the only municipality in Texas with a population of 1.7 million or greater, to adopt an ordinance to establish minimum habitability standards for buildings that have three or more single-family residential units for rent. The bill also would set standards and an inspection process as part of the ordinance and would provide for criminal and civil penalties for violations.
- Minimum habitability standards.** HB 1819 would require Houston's minimum habitability standard ordinance to establish standards on maintenance and proper operating condition of:
- foundations, stairways, walls, floors, ceilings, and all supporting structures at a level sufficient to bear reasonably imposed loads without material risk to tenants;
  - foundations, walls, floors, ceilings, doors, and windows so that the interior of each unit was reasonably protected from adverse weather conditions;
  - signs on each unit and each building in a multi-family residential building so that all were sufficiently legible and conspicuous enough for emergency personnel to locate a unit at night;
  - electric circuits and outlets in each unit;

- approved heating devices that were capable of maintaining a minimum inside temperature of 70 degrees Fahrenheit when the outside temperature is 20 degrees Fahrenheit;
- water heating devices that would supply each unit with a reasonable amount of water at a minimum temperature of 120 degrees Fahrenheit;
- one or more toilets for each unit that would allow for privacy and would be connected to a water source and a public sanitary sewer system or septic system approved by the state Health Code;
- security devices required by the Property Code; and
- any swimming pools.

**Local authority.** The city of Houston would be required to adopt standards on approved heating devices to meet the criteria of the ordinance. The city would be allowed to establish other standards needed to reduce the material risks to the health or safety of tenants of multi-family rental buildings.

**Inspections and penalties for violations.** HB 1819 would require the city of Houston to establish an inspection program to determine whether multi-family rental buildings met the required habitability standards. Owners who violated the standards would be liable for a class C misdemeanor (maximum fine of \$500), and each day a violation continued would be a separate offense. In addition, the city would be able to seek additional civil penalty of up to \$1,000 a day under Local Government Code, sec. 54.017.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009. The city of Houston would be required to adopt its minimum habitability standards ordinance by December 31, 2009.

**SUPPORTERS  
SAY:**

HB 1819 would provide clear and unambiguous authority for the city of Houston to establish minimal habitability standards for multi-family rental units and apartments. None of the standards would be new, and various components of the bill already are scattered across a range of city ordinances regulating health, fire protection, and code enforcement topics. The bill would require the city to adopt and enforce one comprehensive ordinance.

While Texas cities and counties generally resist unfunded mandates from the Legislature, the city of Houston supports HB 1819 as a way to remedy

the danger to public health, safety, and welfare posed by apartments that do not meet minimal livability standards. Funding for the program would come from current building inspection fees and would impose no greater fiscal burden on city residents or property owners.

While little would prevent potential litigation against implementation of a minimum habitability standard, explicit legislative authorization would help Houston defend this ordinance in court. In the time since the city began developing these standards, two children have been killed in the collapse of an apartment stairwell. The threat to public health, safety, and welfare is so pressing that Houston cannot face further delays due to litigation or awaiting legislative authorization during the next session.

More than 1 million Houstonians live in apartments. With only a few days' notice, the city had to find housing for more than 75,000 people evacuating from the devastation caused by Hurricane Katrina. The search for emergency housing revealed that too many apartment residents lived in substandard conditions. The city had hoped to begin a periodic schedule to inspect multi-family units, but Hurricane Ike hit the region and caused significant damage to many apartment complexes. HB 1819 would authorize the city to inspect for minimal habitability standards as recovery and rebuilding continues after Hurricane Ike.

HB 1819 standards would be reasonable and consistent with the goal of providing more livable and affordable rental units. The ordinance would not require a landlord to provide more than a basic level of habitability for apartments. It would not target apartment owners who maintain their property but would help deter problem apartment owners who endanger their tenants and threaten property values of neighboring communities.

The bill would be specifically bracketed so that it would apply only to Houston.

**OPPONENTS  
SAY:**

The Legislature should not impose what are essentially unfunded mandates, particularly for unnecessary and intrusive programs that may impinge on property rights.

The city of Houston should remedy its own problems without coming to the state for approval. The Houston City Council likely has sufficient

home-rule authority under its police power to adopt the ordinance without changes in state law.