

**BILL ANALYSIS**

C.S.H.B. 1197  
By: Krusee  
Land & Resource Management  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Currently, there is no specific statutory authorization for a municipality to enter into a development agreement with a landowner in the municipality’s extraterritorial jurisdiction. Such agreements can provide benefits to both the landowner and the municipality by providing certainty as to the development regulations that will apply to the land, fixing a timetable for annexation, establishing permissible land uses, and providing a plan for extending utilities, streets, and drainage, as well as environmental controls.

C.S.H.B. 1197 authorizes municipalities to enter into such agreements, and will provide certainty as to the long-term enforceability and validity of the agreements.

**RULEMAKING AUTHORITY**

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

**ANALYSIS**

SECTION 1. Amends Chapter 212, Local Government Code to add Subchapter G as follows:

**SUBCHAPTER G: AGREEMENT GOVERNING CERTAIN LAND IN A MUNICIPALITY’S EXTRATERRITORIAL JURISDICTION.**

**Sec. 212.171. DEVELOPMENT AGREEMENT.**

Authorizes a municipality to make a written contract with the owner of land in the extraterritorial jurisdiction for the following purposes:

To guarantee immunity from annexation for up to 15 years.

To extend the municipality’s planning authority over the property.

To authorize enforcement by the municipality of certain municipal land use and development regulations in the same manner the regulations are enforced within the municipality's boundaries.

To authorize enforcement by the municipality of land use and development regulations other than those that apply within the municipality's boundaries, as may be agreed to by the landowner and the municipality.

To provide for infrastructure for the land, including streets and roads, street and road drainage, land drainage, and water, wastewater, and other utility systems.

To authorize enforcement of environmental regulations.

To provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties.

To specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties.

To include other lawful terms and considerations the parties consider appropriate.

Specifies the contents of the agreement (written, contains legal description of land, approved by the governing body and the landowner, and recorded in the real property records of each county in which any part of the land that is subject to the agreement is located).

Contract may be extended in 15 year increments not to exceed 45 years.

Prohibits a municipality in an affected county, as defined by Section 16.341, Water Code, from entering into an agreement that is inconsistent with the model rules adopted under Section 16.343, Water Code

Contract is binding on respective successors and assigns. The agreement is not binding on, and does not create any encumbrance to title as to, any end-buyer of a fully developed and improved lot within the development.

Provides that an agreement constitutes a permit under Chapter 245, Local Government Code.

Validates any agreement entered into between a municipality and a landowner prior to the effective date of the act if the agreement is in compliance with the act.

Provides that the act does not affect the authority of a municipality, county or other political subdivision, an agency of the state or the state under the federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.), and its subsequent amendments, or Subtitle E, Title 2, Natural Resources Code.

SECTION 2. Effective date.

### **EFFECTIVE DATE**

September 1, 2003 unless the Act receives the vote necessary for immediate effect.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B. 1197 requires that an agreement contain an adequate legal description of the land in addition to the other required elements prescribed by H.B. 1197.

C.S.H.B. 1197 adds a new Subsection (e) to prohibit a municipality in an affected county, as defined by Section 16.341, Water Code, from entering into an agreement that is inconsistent with the model rules adopted under Section 16.343, Water Code.

C.S.H.B. 1197 provides that an agreement constitutes a permit under Chapter 245, Local Government Code.

C.S.H.B. 1197 validates any agreement entered into between a municipality and a landowner prior to the

effective date of the act if the agreement is in compliance with the act.

C.S.H.B. 1197 provides that the act does not affect the authority of a municipality, county or other political subdivision, an agency of the state or the state under the federal Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.), and its subsequent amendments, or Subtitle E, Title 2, Natural Resources Code.