

BILL ANALYSIS

C.S.H.B. 2130
By: Kuempel
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law allows landowners who have filed permit applications to develop their property and complete their projects under the city ordinances and other standards in place at the time the application was filed. This law gives property owners certainty in the process. The law makes several exceptions for items such as changes in the health and safety or fire code that protect the public. One such exception allows cities to apply new ordinances retroactively that “prevent the imminent destruction of property or injury to persons,” like a flood. Although most cities and authorities have operated in good faith, a few are attempting to take advantage of this language to allow the retroactive application of ordinances to permits already filed in circumstances that could not reasonably be considered “imminent” dangers as contemplated by the law in place and the history.

C.S.H.B. 2130 will eliminate the possibility of misapplication of the law by making the circumstances it was meant to apply to clear.

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 Section 245.004, Chapter 245, Local Government Code, as follows:

Explicitly state that the exemption to the freeze in permitting status is meant to apply to the imminent destruction of property or injury to a person caused by flooding.

Allows municipalities and other regulating authorities to apply new regulations to prevent the imminent destruction of property or injury to persons that do not affect the basic premises of a project such as lot and building size or that would not change the development permitted by a restrictive covenant of the municipality.

SECTION 2. Effective date.

EFFECTIVE DATE

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

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. Adds a new section to allow municipalities and other regulating authorities to apply new regulations to prevent the imminent destruction of property or injury to persons that do not affect the basic premises of a project such as lot and building size or that would not change the development permitted by a restrictive covenant

of the municipality.