

By: Guillen

H.B. No. 3281

A BILL TO BE ENTITLED

AN ACT

relating to development regulations for certain unincorporated areas in border counties; providing a penalty.

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

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. DEVELOPMENT REGULATIONS IN BORDER COUNTIES

Sec. 231.250. LEGISLATIVE FINDINGS; PURPOSE.

(a) The legislature finds that:

(1) economically distressed subdivisions commonly called 'colonias' are found throughout the border counties;

(2) in recent years, the number of people living in colonias in the border counties has increased;

(3) due to the implementation of the North American Free Trade Agreement ('NAFTA'), the General Agreement on Tariffs and Trade ('GATT'), other economic incentives, and the increasingly robust economic development along the Texas-Mexico border, the population in colonias and the overall population in the border counties will continue to increase;

(4) as a result of such rapid growth, border counties are experiencing unprecedented development in areas that are not adequately provided with public facilities and services;

(5) the vast majority of housing units in colonias lack an adequate potable water supply, wastewater or sewer

1 services, adequate roads or drainage facilities, or open space;

2 (6) many housing units in colonias are defective due
3 to inadequate design and due to the lack of uniformity of building
4 practices in the border counties;

5 (7) many of the housing units in colonias are located
6 in isolated rural segments in the border counties where the land is
7 inexpensive and supporting public services cannot be provided;

8 (8) the unplanned nature of growth affecting border
9 counties and, in particular, the consumption of agricultural land
10 by new development and the location of incompatible urban uses
11 adjoining agricultural land in unincorporated areas of the border
12 counties poses an imminent and unprecedented threat to the
13 preservation of agricultural resources in the border counties,
14 which is essential to the economic stability of border counties;

15 (9) the unplanned growth, the lack of adequate public
16 facilities, the location of new development relative to
17 agricultural land, and general housing conditions in the border
18 counties erode the economic stability of the border counties, which
19 are dependent upon a healthy public and safe environment;

20 (10) subdivision regulations governing residential
21 development alone are insufficient to assure that border counties
22 will be able to assure the public health, safety, and general
23 welfare;

24 (11) without adequate comprehensive planning,
25 development regulations, and uniform codes governing construction
26 of buildings, development in border counties will pose potential
27 threats to the public health, safety, morals, and general welfare;

1 (12) the need to address unplanned and potentially
2 economically debilitating growth in the border counties is a
3 compelling crisis that must be addressed through this legislation;

4 (b) The powers granted under this subchapter are for the
5 purposes of:

6 (1) promoting the public health, safety, peace,
7 morals, and general welfare;

8 (2) preserving agricultural land;

9 (3) assuring that growth and development can be
10 adequately served by public facilities;

11 (4) preventing the harmful effects of rapid
12 urbanization;

13 (5) coordinating provision of services with
14 constituent municipalities; and

15 (6) promoting safe and affordable housing in
16 unincorporated areas.

17 Sec. 231.251. AREAS SUBJECT TO REGULATION. (a) This
18 subchapter applies only to the unincorporated areas of a county
19 that has an international border, hereinafter referred to as a
20 "border county."

21 (b) This subchapter does not apply to land used solely for
22 agricultural purposes.

23 Sec. 231.252. DEVELOPMENT REGULATIONS AUTHORIZED The
24 commissioners court of a border county may adopt orders
25 establishing development regulations governing:

26 (1) the percentage of a lot that may be occupied or
27 developed;

- 1 (2) residential density;
- 2 (3) the size of buildings;
- 3 (4) the location, design, construction, extension,
4 and size of streets and roads;
- 5 (5) the setback from or buffer between development and
6 agricultural land;
- 7 (6) the setback from or buffer between different types
8 of uses;
- 9 (7) the location, design, construction, extension,
10 size, and installation of water and wastewater facilities,
11 including the requirement of connecting to a centralized water or
12 wastewater system;
- 13 (8) the location, design, construction, extension,
14 size, and installation of drainage facilities, and other public
15 requirements;
- 16 (9) the location, design, and construction of parks,
17 playgrounds and recreational areas; and
- 18 (10) abatement of harms resulting from inadequate
19 water or wastewater facilities.

20 Sec. 231.253. COUNTY PLANNING. (a) A border county may
21 adopt a comprehensive plan for unincorporated areas for the long
22 range development of the county that includes but is not limited to
23 provisions on growth, land use, transportation and public
24 facilities and that is used to coordinate and guide development
25 regulations adopted under this subchapter.

26 (b) Development regulations must be adopted in accordance
27 with the county comprehensive plan for growth and must be

1 coordinated with the comprehensive plans of municipalities within
2 the county.

3 Sec. 231.254. DISTRICTS (a) The commissioners court of a
4 border county may divide the unincorporated areas of the county
5 into districts of a number, shape, and size the court considers best
6 for carrying out this subchapter.

7 (b) Development regulations may vary from district to
8 district.

9 Sec. 231.255. LOCAL OPTION ELECTION. (a) This subchapter
10 applies only to a county in which a majority of the voters voting on
11 the question approve this subchapter's grant of authority to the
12 county.

13 (b) If an election is held, the ballot shall be printed to
14 provide for voting for or against the proposition: Granting
15 authority to the county to adopt development regulations in the
16 unincorporated areas in the county. Each qualified voter of each
17 precinct is entitled to vote in the election.

18 Sec. 231.256. PROCEDURE GOVERNING ADOPTION OF REGULATIONS
19 AND DISTRICT BOUNDARIES. (a) A development regulation authorized
20 by this subchapter is not effective until it is adopted by the
21 commissioners court after public hearing. Before the 15th day
22 before the date of the hearing, the commissioners court must
23 publish notice of the hearing in a newspaper of general circulation
24 in the county.

25 (b) The commissioners court may establish or change a
26 development regulation authorized by this subchapter only by an
27 order passed by at least a majority vote of the full membership of

1 the court.

2 Sec. 231.257. DEVELOPMENT COMMISSION. (a) The
3 commissioners court may appoint a development commission to assist
4 in the implementation and enforcement of development regulations
5 adopted under this subchapter.

6 (b) A development commission must consist of an ex officio
7 chairman who must be a public official in the county and four
8 additional members.

9 (c) A development commission is advisory only and may
10 recommend appropriate development regulations for the county.

11 (d) The members of the development commission are subject to
12 the same requirements relating to conflicts of interest that are
13 applicable to the commissioners court under Chapter 171.

14 Sec. 231.258. SPECIAL EXCEPTION. (a) A person aggrieved by
15 a development regulation adopted under this subchapter may petition
16 the commissioners court, or the development commission, if the
17 commissioners court has established a development commission, for a
18 special exception to a development regulation adopted by the
19 commissioners court.

20 (b) The commissioners court shall adopt procedures
21 governing applications, notice, hearings, and other matters
22 related to the grant of a special exception.

23 Sec. 231.259. ENFORCEMENT; PENALTY; REMEDIES. (a) The
24 commissioners court may adopt orders to enforce this subchapter or
25 any order adopted under this subchapter.

26 (b) A person commits an offense if the person violates this
27 subchapter or any order adopted under this subchapter. An offense

1 under this subsection is a misdemeanor punishable by a fine of not
2 less than \$500 or more than \$1,000. Each day that a violation
3 occurs constitutes a separate offense. Trial shall be in the
4 district court.

5 Sec. 231.260. COOPERATION WITH MUNICIPALITIES. The
6 commissioners court by order may enter into agreements with any
7 municipality located within the county to assist in the
8 implementation and enforcement of development regulations adopted
9 pursuant to this subchapter, including expressly agreements for
10 implementation and enforcement within the extraterritorial
11 jurisdiction of the municipality.

12 Sec. 231.261. AUTHORITY TO ENFORCE BUILDING CODES. (a) The
13 commissioners court by order may adopt a uniform building, fire,
14 electrical or plumbing, or mechanical code adopted by a recognized
15 national code organization, or a local amendment to such codes
16 enacted solely to address imminent threats or destruction or
17 property or injury to persons.

18 (b) The commissioners court or any municipality in the
19 county, maybe contract with on another for administration and for
20 enforcement of the codes.

21 (c) A person may not construct a building in an
22 unincorporated areas of the county unless the person obtains a
23 building permit issued in accordance with this section.

24 (1) A person may apply for a building permit by to the
25 commissioners court submitting a plan for the proposed building
26 containing information required by the commissioners court; and

27 (2) an application fee in an amount set by the

1 commissioners court.

2 (d) Within 30 days after the date the commissioners court
3 receives a complete application and fee in accordance with
4 subsection (c), the commissioners court shall either issue the
5 permit, if the plan complies with the codes, or deny the permit, if
6 the plan does not comply with the codes. For purposes of this
7 section, if a complete application and fee is submitted to the
8 commissioners court in accordance with subsection (c) and no action
9 is taken on the application within 30 days by the commissioners
10 court, the building permit shall be deemed approved.

11 (e) The county shall inspect a building for compliance with
12 applicable code requirements.

13 (1) The commissioners court may provide that a county
14 employee or an employee of another governmental entity under
15 intergovernmental contract may perform the inspection.

16 (2) A building inspector may enter and perform the
17 inspection at a reasonable time at any stage of the building's
18 construction and after completion of the building.

19 (3) The county shall issue a certificate of compliance
20 to the owner of a building inspected under this section if the
21 inspector determines that the building complies with applicable
22 codes.

23 (f) The commissioners court may develop a fee schedule based
24 on building type and may set and charges fees for inspections,
25 issuance of building permits and issuance of certificates of
26 compliance under this section.

27 (1) The fees must be set in amounts necessary to cover

1 the cost of administering and enforcing this section.

2 (2) The county shall deposit fees received under this
3 subchapter in a special fund in the county treasury, and money in
4 that fund may be used only for the administration and enforcement of
5 the codes.

6 (g) The appropriate attorney representing the county in the
7 district court may seek injunctive relief to prevent the violation
8 or threatened violation of the codes.

9 (h) The appropriate attorney representing the county in
10 civil cases may file a civil action in a court of competent
11 jurisdiction to recover from a person who violates applicable codes
12 a civil penalty in an amount not to exceed \$200 for each day on which
13 the violation exists. In determining the amount of the penalty, the
14 court shall consider the seriousness of the violation.

15 Sec. 231.262. EXEMPTION. The provisions of Texas
16 Government Code Chapter 2007, the Private Real Property
17 Preservation Act, Subchapter C, relating to the preparation of a
18 takings impact assessment, do not apply to the adoption or
19 application of plans, orders, rules, regulations or exceptions
20 authorized under this Act.

21 Sec. 231.263. CONFLICT WITH OTHER LAWS. If a development
22 regulation adopted under this subchapter imposes higher standards
23 than those required under another statute, order or regulation, the
24 development regulation adopted under this subchapter controls. If
25 the other statute, order or regulation imposes higher standards,
26 that statute, order or regulations controls.

27 SECTION 2. This Act takes effects September 1, 2003.