

By: Shapleigh

S.B. No. 395

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain counties to regulate land development; providing a penalty.

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

SECTION 1. Subtitle B, Title 7, Local Government Code, is amended by adding Chapter 236 to read as follows:

CHAPTER 236. REGULATION OF LAND DEVELOPMENT IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 236.001. DEFINITIONS. In this chapter:

(1) "International Residential Code" means the International Residential Code for One-Family and Two-Family Dwellings promulgated by the International Code Council.

(2) "Residential" means having the character of a:

(A) detached one-family or two-family dwelling;

or

(B) multiple single-family dwelling that is not more than three stories high with separate means of egress, including the accessory structures of the dwelling, and that does not have the character of a:

(i) facility used for the accommodation of transient guests; or

(ii) structure in which medical, rehabilitative, or assisted living services are provided in connection with the occupancy of the structure.

1 Sec. 236.002. APPLICABILITY. This chapter applies only to a
2 county that:

- 3 (1) has a population of 650,000 or more; and
4 (2) includes territory located within 50 miles of an
5 international border.

6 [Sections 236.003-236.050 reserved for expansion]

7 SUBCHAPTER B. REGULATORY AUTHORITY

8 Sec. 236.051. REGULATORY AUTHORITY. (a) The commissioners
9 court of the county by order may regulate residential land
10 development in the unincorporated area of the county to prevent the
11 proliferation of colonias by:

- 12 (1) adopting regulations relating to:
13 (A) maximum densities, including the size of
14 lots;
15 (B) the height, number of stories, size, or
16 number of buildings or other structures that may be located on a lot
17 or tract; and
18 (C) the location of buildings and other
19 structures on a lot or tract; and
20 (2) adopting building codes to promote safe and
21 uniform building, plumbing, and electrical standards.

22 (b) If a tract of land is appraised as agricultural or
23 open-space land by the appraisal district, the commissioners court
24 may not regulate land development on that tract under the authority
25 granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

26 (c) The authority granted under this section does not
27 authorize the commissioners court to adopt an order regulating

1 commercial property that is uninhabitable.

2 Sec. 236.052. RESIDENTIAL BUILDING CODE. (a) If the
3 commissioners court adopts a residential building code, the
4 commissioners court must:

5 (1) adopt the International Residential Code as it
6 existed on May 1, 2003; and

7 (2) apply the code to all construction, alteration,
8 remodeling, enlargement, and repair of residential structures in
9 the unincorporated area of the county.

10 (b) The commissioners court shall establish procedures to
11 administer and enforce the International Residential Code if it is
12 adopted.

13 (c) The commissioners court shall review and consider and
14 may adopt amendments made by the International Code Council to the
15 International Residential Code after May 1, 2003.

16 Sec. 236.053. INSPECTIONS OF RESIDENTIAL STRUCTURES. An
17 inspection of a residential structure in the unincorporated area of
18 the county must be conducted by a person who:

19 (1) is an inspector certified by the International
20 Code Council, the Building Officials and Code Administrators
21 International, Inc., the International Conference of Building
22 Officials, or the Southern Building Code Congress International,
23 Inc., or is a licensed professional engineer; and

24 (2) has any other qualifications established by the
25 county.

26 Sec. 236.054. BUILDING PERMITS. (a) The county shall issue
27 a building permit if the person submitting the application for the

1 permit:

2 (1) files information relating to the location of the
3 residence;

4 (2) files the building plans for the residence; and

5 (3) complies with the applicable regulations relating
6 to the issuance of the permit.

7 (b) The county may charge a reasonable building permit fee.

8 (c) The county shall deposit a fee collected under this
9 section in an account in the general fund of the county dedicated to
10 the building permit program. The funds in the account may be used
11 only for the purpose of administering the building permit program.

12 Sec. 236.055. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
13 ORDER. If an order adopted under this subchapter conflicts with an
14 ordinance of a municipality, the municipal ordinance prevails
15 within the municipality's jurisdiction to the extent of the
16 conflict.

17 Sec. 236.056. EXISTING COUNTY AUTHORITY UNAFFECTED. The
18 authority granted by this subchapter does not affect the authority
19 of the commissioners court to adopt an order or ordinance under
20 other law.

21 [Sections 236.057-236.100 reserved for expansion]

22 SUBCHAPTER C. ENFORCEMENT

23 Sec. 236.101. INJUNCTION. The county, in a suit brought by
24 the county attorney or other prosecuting attorney representing the
25 county in the district court, is entitled to appropriate injunctive
26 relief to prevent the violation or threatened violation of an order
27 adopted under this chapter from continuing or occurring.

1 Sec. 236.102. PENALTY; EXCEPTION. (a) A person commits an
2 offense if the person violates a restriction or prohibition imposed
3 by an order adopted under this chapter. An offense under this
4 section is a Class C misdemeanor.

5 (b) If the Texas Department of Housing and Community Affairs
6 classifies a household as a low-income household, a penalty may not
7 be assessed under this section against the owner-occupant of the
8 residential dwelling for a building standards or building code
9 violation relating to the dwelling unless the county makes
10 available to the owner-occupant housing rehabilitation assistance
11 in an amount sufficient to cure the violation. The assistance
12 provided must be a grant or loan and must be on payment terms that do
13 not cause the housing expenses of the owner-occupant to exceed 30
14 percent of the owner-occupant's net income.

15 SECTION 2. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2003.