

1-1 By: Shapleigh S.B. No. 395  
1-2 (In the Senate - Filed February 6, 2003; February 12, 2003,  
1-3 read first time and referred to Committee on International  
1-4 Relations and Trade; April 8, 2003, reported adversely, with  
1-5 favorable Committee Substitute by the following vote: Yeas 6, Nays  
1-6 0; April 8, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 395 By: Shapleigh

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to authorizing certain counties to regulate land  
1-11 development; providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subtitle B, Title 7, Local Government Code, is  
1-14 amended by adding Chapter 236 to read as follows:

1-15 CHAPTER 236. REGULATION OF LAND DEVELOPMENT IN CERTAIN COUNTIES

1-16 SUBCHAPTER A. GENERAL PROVISIONS

1-17 Sec. 236.001. DEFINITIONS. In this chapter:

1-18 (1) "International Residential Code" means the  
1-19 International Residential Code for One-Family and Two-Family  
1-20 Dwellings, excluding Part VIII of that code. The International  
1-21 Residential Code is promulgated by the International Code Council.

1-22 (2) "National Electrical Code" means NFPA 70, which is  
1-23 promulgated by the National Fire Protection Association.

1-24 (3) "Residential" means having the character of a:

1-25 (A) detached one-family or two-family dwelling;

1-26 or

1-27 (B) multiple single-family dwelling that is not  
1-28 more than three stories high with separate means of egress,  
1-29 including the accessory structures of the dwelling, and that does  
1-30 not have the character of a:

1-31 (i) facility used for the accommodation of  
1-32 transient guests; or

1-33 (ii) structure in which medical,  
1-34 rehabilitative, or assisted living services are provided in  
1-35 connection with the occupancy of the structure.

1-36 Sec. 236.002. APPLICABILITY. This chapter applies only to  
1-37 a county that:

1-38 (1) has a population of 650,000 or more; and

1-39 (2) includes territory located within 50 miles of an  
1-40 international border.

1-41 [Sections 236.003-236.050 reserved for expansion]

1-42 SUBCHAPTER B. REGULATORY AUTHORITY

1-43 Sec. 236.051. REGULATORY AUTHORITY. (a) The  
1-44 commissioners court of the county by order may regulate residential  
1-45 land development in the unincorporated area of the county to  
1-46 prevent the proliferation of colonias by:

1-47 (1) adopting regulations relating to:

1-48 (A) maximum densities, including the size of  
1-49 lots;

1-50 (B) the height, number of stories, size, or  
1-51 number of buildings or other structures that may be located on a lot  
1-52 or tract; and

1-53 (C) the location of buildings and other  
1-54 structures on a lot or tract; and

1-55 (2) adopting building codes to promote safe and  
1-56 uniform building, plumbing, and electrical standards.

1-57 (b) If a tract of land is appraised as agricultural or  
1-58 open-space land by the appraisal district, the commissioners court  
1-59 may not regulate land development on that tract under the authority  
1-60 granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

1-61 (c) The authority granted under this section does not  
1-62 authorize the commissioners court to adopt an order regulating  
1-63 commercial property that is uninhabitable.

2-1 Sec. 236.052. RESIDENTIAL BUILDING CODE. (a) If the  
2-2 commissioners court adopts a residential building code, the  
2-3 commissioners court must:

2-4 (1) adopt both the International Residential Code and  
2-5 the National Electrical Code as they existed on May 1, 2003; and

2-6 (2) apply both codes, as applicable, to all  
2-7 construction, alteration, remodeling, enlargement, and repair of  
2-8 residential structures in the unincorporated area of the county.

2-9 (b) The commissioners court shall establish procedures to  
2-10 administer and enforce the International Residential Code and the  
2-11 National Electrical Code if adopted.

2-12 (c) The commissioners court shall review and consider and  
2-13 may adopt amendments made by the International Code Council to the  
2-14 International Residential Code or amendments made by the National  
2-15 Fire Protection Association to the National Electrical Code after  
2-16 May 1, 2003.

2-17 Sec. 236.053. INSPECTIONS OF RESIDENTIAL STRUCTURES. An  
2-18 inspection of a residential structure in the unincorporated area of  
2-19 the county must be conducted by a person who:

2-20 (1) is an inspector certified by the International  
2-21 Code Council, the Building Officials and Code Administrators  
2-22 International, Inc., the International Conference of Building  
2-23 Officials, or the Southern Building Code Congress International,  
2-24 Inc., or is a licensed professional engineer; and

2-25 (2) has any other qualifications established by the  
2-26 county.

2-27 Sec. 236.054. BUILDING PERMITS. (a) The county shall  
2-28 issue a building permit if the person submitting the application  
2-29 for the permit:

2-30 (1) files information relating to the location of the  
2-31 residence;

2-32 (2) files the building plans for the residence; and

2-33 (3) complies with the applicable regulations relating  
2-34 to the issuance of the permit.

2-35 (b) The county may charge a reasonable building permit fee.

2-36 (c) The county shall deposit a fee collected under this  
2-37 section in an account in the general fund of the county dedicated to  
2-38 the building permit program. The funds in the account may be used  
2-39 only for the purpose of administering the building permit program.

2-40 Sec. 236.055. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY  
2-41 ORDER. If an order adopted under this subchapter conflicts with an  
2-42 ordinance of a municipality, the municipal ordinance prevails  
2-43 within the municipality's jurisdiction to the extent of the  
2-44 conflict.

2-45 Sec. 236.056. EXISTING COUNTY AUTHORITY UNAFFECTED. The  
2-46 authority granted by this subchapter does not affect the authority  
2-47 of the commissioners court to adopt an order or ordinance under  
2-48 other law.

2-49 [Sections 236.057-236.100 reserved for expansion]

2-50 SUBCHAPTER C. ENFORCEMENT

2-51 Sec. 236.101. REQUIREMENTS FOR ORDERS. An order adopted  
2-52 under this chapter must provide a person at least 30 days after the  
2-53 date of adoption of the order to comply with or cure the violation.

2-54 Sec. 236.102. INJUNCTION. The county, in a suit brought by  
2-55 the county attorney or other prosecuting attorney representing the  
2-56 county in the district court, is entitled to appropriate injunctive  
2-57 relief to prevent the violation or threatened violation of an order  
2-58 adopted under this chapter from continuing or occurring.

2-59 Sec. 236.103. PENALTY; EXCEPTION. (a) A person commits an  
2-60 offense if the person violates a restriction or prohibition imposed  
2-61 by an order adopted under this chapter. An offense under this  
2-62 section is a Class C misdemeanor.

2-63 (b) If the Texas Department of Housing and Community Affairs  
2-64 classifies a household as a low-income household, a penalty may not  
2-65 be assessed under this section against the owner-occupant of the  
2-66 residential dwelling for a building standards or building code  
2-67 violation relating to the dwelling unless the county makes  
2-68 available to the owner-occupant housing rehabilitation assistance  
2-69 in an amount sufficient to cure the violation. The assistance

3-1 provided must be a grant or loan and must be on payment terms that do  
3-2 not cause the housing expenses of the owner-occupant to exceed 30  
3-3 percent of the owner-occupant's net income.

3-4 SECTION 2. This Act takes effect immediately if it receives  
3-5 a vote of two-thirds of all the members elected to each house, as  
3-6 provided by Section 39, Article III, Texas Constitution. If this  
3-7 Act does not receive the vote necessary for immediate effect, this  
3-8 Act takes effect September 1, 2003.

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