

By: Lucio

S.B. No. 684

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Chapter 242, Local Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. APPLICABILITY. This subchapter applies only to:

(1) a county that includes territory located within 50 miles of an international border; or

(2) a municipality located in that county if:

(A) the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter; and

(B) the county by resolution authorizes the municipality to exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter.

Sec. 242.052. REGULATORY AUTHORITY. (a) The commissioners court of a county to which this subchapter applies may, by order, regulate residential land development in the unincorporated area of the county. The governing body of a municipality to which this subchapter applies may, by ordinance, regulate residential land

1 development in the municipality's extraterritorial jurisdiction.  
2 By this authority, the commissioners court or governing body may  
3 prevent the proliferation of colonias by:

4 (1) adopting regulations relating to:

5 (A) maximum densities, including the size of  
6 lots;

7 (B) the height, number of stories, size, or  
8 number of buildings or other structures that may be located on a lot  
9 or tract; and

10 (C) the location of buildings and other  
11 structures on a lot or tract; and

12 (2) adopting building codes to promote safe and  
13 uniform building, plumbing, and electrical standards.

14 (b) If a tract of land is appraised as agricultural or  
15 open-space land by the appraisal district, the commissioners court  
16 or governing body may not regulate land development on that tract  
17 under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or  
18 (a)(2).

19 (c) The authority granted under this section does not  
20 authorize the commissioners court or governing body to adopt an  
21 order regulating commercial property that is uninhabitable.

22 Sec. 242.053. BUILDING PERMITS. (a) The county or  
23 municipality, as appropriate, shall issue a building permit if the  
24 person submitting the application for the permit:

25 (1) files information relating to the location of the  
26 residence;

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

1           (3) complies with the applicable regulations relating  
2 to the issuance of the permit.

3           (b) The county or municipality may charge a reasonable  
4 building permit fee.

5           (c) The county or municipality shall deposit fees collected  
6 under this section in an account in its general fund and dedicate  
7 the fees to the building permit program. The funds in the account  
8 may be used only for the purpose of administering the building  
9 permit program.

10          Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY  
11 ORDER. If an order adopted by the county under this subchapter  
12 conflicts with an ordinance of a municipality, the municipal  
13 ordinance prevails within the municipality's jurisdiction to the  
14 extent of the conflict.

15          Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority  
16 granted by this subchapter does not affect the authority of the  
17 commissioners court or governing body to adopt an order or  
18 ordinance under other law.

19          Sec. 242.056. INJUNCTION. The county or municipality, in a  
20 suit brought by the appropriate attorney representing the county or  
21 municipality in the district court, is entitled to appropriate  
22 injunctive relief to prevent the violation or threatened violation  
23 of the entity's order or ordinance adopted under this subchapter  
24 from continuing or occurring.

25          Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an  
26 offense if the person violates a restriction or prohibition imposed  
27 by an order or ordinance adopted under this subchapter. An offense

1 under this section is a Class C misdemeanor.

2 (b) It is an exception to the application of this section  
3 that:

4 (1) the person is an owner-occupant of a residential  
5 dwelling that is classified by the Texas Department of Housing and  
6 Community Affairs as a low-income household;

7 (2) the violation related to a building standard or  
8 building code for that dwelling; and

9 (3) the county or municipality, as appropriate:

10 (A) did not make available to the person a grant  
11 or loan in an amount sufficient to cure the violation; or

12 (B) made available to the person a loan that was  
13 sufficient to cure the violation but that caused the housing  
14 expenses of the person to exceed 30 percent of the person's net  
15 income.

16 SECTION 2. The heading to Chapter 242, Local Government  
17 Code, is amended to read as follows:

18 CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE  
19 SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~  
20 ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

21 SECTION 3. Chapter 242, Local Government Code, is amended  
22 by designating Sections 242.001 through 242.002 as Subchapter A and  
23 adding a heading for Subchapter A to read as follows:

24 SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE  
25 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

26 SECTION 4. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2005.