

By: Lucio

S.B. No. 408

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,

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

5 (1) adopting regulations relating to:

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

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

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

13 (D) the preparation of a plan for utility  
14 development, environmental effect and adaptation, utility  
15 extension, and capacity planning and providing financial analysis  
16 of said plan; and

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

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

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

27 (d) The authority granted under this section does not

1 authorize the commissioners court or governing body to adopt an  
2 order that limits or otherwise impairs the rights of individuals or  
3 entities in the exploration, development, or production of oil,  
4 gas, or other minerals.

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

8 (1) files information relating to the location of the  
9 residence;

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

11 (3) complies with the applicable regulations relating  
12 to the issuance of the permit.

13 (b) The county or municipality may charge a reasonable  
14 building permit fee.

15 (c) The county or municipality shall deposit fees collected  
16 under this section in an account in its general fund and dedicate  
17 the fees to the building permit program. The funds in the account  
18 may be used only for the purpose of administering the building  
19 permit program.

20 Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY  
21 ORDER. If an order adopted by the county under this subchapter  
22 conflicts with an ordinance of a municipality, the municipal  
23 ordinance prevails within the municipality's jurisdiction to the  
24 extent of the conflict.

25 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority  
26 granted by this subchapter does not affect the authority of the  
27 commissioners court or governing body to adopt an order or

1 ordinance under other law.

2 Sec. 242.056. INJUNCTION. The county or municipality, in a  
3 suit brought by the appropriate attorney representing the county or  
4 municipality in the district court, is entitled to appropriate  
5 injunctive relief to prevent the violation or threatened violation  
6 of the entity's order or ordinance adopted under this subchapter  
7 from continuing or occurring.

8 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an  
9 offense if the person violates a restriction or prohibition imposed  
10 by an order or ordinance adopted under this subchapter. An offense  
11 under this section is a Class C misdemeanor.

12 (b) It is an exception to the application of this section  
13 that:

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

17 (2) the dwelling was constructed before the effective  
18 date of this subchapter;

19 (3) the violation related to a building standard or  
20 building code for that dwelling; and

21 (4) the county or municipality, as appropriate:

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

24 (B) made available to the person a loan that was  
25 sufficient to cure the violation but that caused the housing  
26 expenses of the person to exceed 30 percent of the person's net  
27 income.

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

3           CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE  
4           SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~  
5           ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

6           SECTION 3. Chapter 242, Local Government Code, is amended  
7 by designating Sections 242.001, 242.0015, and 242.002 as  
8 Subchapter A and adding a heading for Subchapter A to read as  
9 follows:

10          SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE  
11          MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

12          SECTION 4. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2007.