

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 with a total area of less than 6,000 square miles 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

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

6 (1) adopting regulations relating to:

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

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

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

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

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

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

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

1 (d) The authority granted under this section does not
2 authorize the commissioners court or governing body to adopt an
3 order that limits or otherwise impairs the rights of individuals or
4 entities in the exploration, development, or production of oil,
5 gas, or other minerals.

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

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

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

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

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

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

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

26 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority
27 granted by this subchapter does not affect the authority of the

1 commissioners court or governing body to adopt an order or
2 ordinance under other law.

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

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

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

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

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

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

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

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

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

1 income.

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

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

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

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

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