

1-1 By: Lucio S.B. No. 408
1-2 (In the Senate - Filed February 1, 2007; February 21, 2007,
1-3 read first time and referred to Committee on International
1-4 Relations and Trade; March 19, 2007, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 6,
1-6 Nays 0; March 19, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 408 By: Lucio

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

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

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

1-13 SECTION 1. Chapter 242, Local Government Code, is amended
1-14 by adding Subchapter B to read as follows:

1-15 SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND
1-16 MUNICIPALITIES

1-17 Sec. 242.051. APPLICABILITY. This subchapter applies only
1-18 to:

1-19 (1) a county that includes territory located within 50
1-20 miles of an international border; or

1-21 (2) a municipality located in that county if:

1-22 (A) the county does not exercise in the
1-23 municipality's extraterritorial jurisdiction the authority
1-24 described by this subchapter; and

1-25 (B) the county by resolution authorizes the
1-26 municipality to exercise in the municipality's extraterritorial
1-27 jurisdiction the authority described by this subchapter.

1-28 Sec. 242.052. REGULATORY AUTHORITY. (a) The
1-29 commissioners court of a county to which this subchapter applies
1-30 may, by order, regulate residential land development in the
1-31 unincorporated area of the county. The governing body of a
1-32 municipality to which this subchapter applies may, by ordinance,
1-33 regulate residential land development in the municipality's
1-34 extraterritorial jurisdiction. By this authority, the
1-35 commissioners court or governing body may prevent the proliferation
1-36 of colonias by:

1-37 (1) adopting regulations relating to:

1-38 (A) maximum densities, including the size of
1-39 lots;

1-40 (B) the height, number of stories, size, or
1-41 number of buildings or other structures that may be located on a lot
1-42 or tract;

1-43 (C) the location of buildings and other
1-44 structures on a lot or tract; and

1-45 (D) the preparation of a plan for utility
1-46 development, environmental effect and adaptation, utility
1-47 extension, and capacity planning and providing financial analysis
1-48 of said plan; and

1-49 (2) adopting building codes to promote safe and
1-50 uniform building, plumbing, and electrical standards.

1-51 (b) If a tract of land is appraised as agricultural or
1-52 open-space land by the appraisal district, the commissioners court
1-53 or governing body may not regulate land development on that tract
1-54 under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or
1-55 (a)(2).

1-56 (c) The authority granted under this section does not
1-57 authorize the commissioners court or governing body to adopt an
1-58 order regulating commercial property that is uninhabitable.

1-59 (d) The authority granted under this section does not
1-60 authorize the commissioners court or governing body to adopt an
1-61 order that limits or otherwise impairs the rights of individuals or
1-62 entities in the exploration, development, or production of oil,
1-63 gas, or other minerals.

2-1 Sec. 242.053. BUILDING PERMITS. (a) The county or
2-2 municipality, as appropriate, shall issue a building permit if the
2-3 person submitting the application for the permit:

2-4 (1) files information relating to the location of the
2-5 residence;

2-6 (2) files the building plans for the residence; and

2-7 (3) complies with the applicable regulations relating
2-8 to the issuance of the permit.

2-9 (b) The county or municipality may charge a reasonable
2-10 building permit fee.

2-11 (c) The county or municipality shall deposit fees collected
2-12 under this section in an account in its general fund and dedicate
2-13 the fees to the building permit program. The funds in the account
2-14 may be used only for the purpose of administering the building
2-15 permit program.

2-16 Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
2-17 ORDER. If an order adopted by the county under this subchapter
2-18 conflicts with an ordinance of a municipality, the municipal
2-19 ordinance prevails within the municipality's jurisdiction to the
2-20 extent of the conflict.

2-21 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority
2-22 granted by this subchapter does not affect the authority of the
2-23 commissioners court or governing body to adopt an order or
2-24 ordinance under other law.

2-25 Sec. 242.056. INJUNCTION. The county or municipality, in a
2-26 suit brought by the appropriate attorney representing the county or
2-27 municipality in the district court, is entitled to appropriate
2-28 injunctive relief to prevent the violation or threatened violation
2-29 of the entity's order or ordinance adopted under this subchapter
2-30 from continuing or occurring.

2-31 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an
2-32 offense if the person violates a restriction or prohibition imposed
2-33 by an order or ordinance adopted under this subchapter. An offense
2-34 under this section is a Class C misdemeanor.

2-35 (b) It is an exception to the application of this section
2-36 that:

2-37 (1) the person is an owner-occupant of a residential
2-38 dwelling that is classified by the Texas Department of Housing and
2-39 Community Affairs as a low-income household;

2-40 (2) the dwelling was constructed before the effective
2-41 date of this subchapter;

2-42 (3) the violation related to a building standard or
2-43 building code for that dwelling; and

2-44 (4) the county or municipality, as appropriate:

2-45 (A) did not make available to the person a grant
2-46 or loan in an amount sufficient to cure the violation; or

2-47 (B) made available to the person a loan that was
2-48 sufficient to cure the violation but that caused the housing
2-49 expenses of the person to exceed 30 percent of the person's net
2-50 income.

2-51 SECTION 2. The heading to Chapter 242, Local Government
2-52 Code, is amended to read as follows:

2-53 CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
2-54 SUBDIVISIONS AND PROPERTY DEVELOPMENT [IN AND OUTSIDE
2-55 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION]

2-56 SECTION 3. Chapter 242, Local Government Code, is amended
2-57 by designating Sections 242.001, 242.0015, and 242.002 as
2-58 Subchapter A and adding a heading for Subchapter A to read as
2-59 follows:

2-60 SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
2-61 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

2-62 SECTION 4. This Act takes effect immediately if it receives
2-63 a vote of two-thirds of all the members elected to each house, as
2-64 provided by Section 39, Article III, Texas Constitution. If this
2-65 Act does not receive the vote necessary for immediate effect, this
2-66 Act takes effect September 1, 2007.

2-67 * * * * *