

House Bill 3232
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0155 to read as follows:

Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS AFFECTING A SUBDIVISION GOLF COURSE. (a) This section applies to land located wholly or partly in the corporate boundaries of a municipality if the municipality:

(1) has a population of more than 50,000; and

(2) is located wholly or partly in a county:

(A) with a population of more than three million; or

(B) with a population of more than 275,000 that is adjacent to a county with a population of more than three million.

(b) In this section:

(1) "Management certificate" means a certificate described by Section 209.004, Property Code.

(2) "New plat" means a development plat, replat, amending plat, or vacating plat that would change the existing plat or the current use of the land that is the subject of the new plat.

(3) "Property owners' association" and "restrictive covenant" have the meanings assigned by Section 202.001, Property Code.

(4) "Restrictions," "subdivision," and "owner" have the meanings assigned by Section 201.003, Property Code.

(5) "Subdivision golf course" means an area of land that has been used as a golf course or country club at any time in the five years preceding the date on which a new plat for the land is filed and that:

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SECTION 1. Subchapter A, Chapter 212, Local Government Code, is amended by adding Section 212.0155 to read as follows:

Sec. 212.0155. ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS AFFECTING A SUBDIVISION GOLF COURSE. (a) This section applies to land located wholly or partly in the corporate boundaries of a municipality if the municipality:

(1) has a population of more than 50,000; and

(2) is located wholly or partly in a county:

(A) with a population of more than three million; or

(B) with a population of more than 275,000 that is adjacent to a county with a population of more than three million.

(b) In this section:

(1) "Management certificate" means a certificate described by Section 209.004, Property Code.

(2) "New plat" means a development plat, replat, amending plat, or vacating plat that would change the existing plat or the current use of the land that is the subject of the new plat.

(3) "Property owners' association" and "restrictive covenant" have the meanings assigned by Section 202.001, Property Code.

(4) "Restrictions," "subdivision," and "owner" have the meanings assigned by Section 201.003, Property Code.

(5) "Subdivision golf course" means an area of land:

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(A) is or was, within the past five years, zoned as a community facility; or

(B) was originally developed as:

(i) a golf course or a country club; and

(ii) an integral part of a common scheme of development for a predominantly residential single-family development project.

(c) In addition to any other requirement of this chapter, a new plat must conform to the requirements of this section if any of the area subject to the new plat is a subdivision golf course. The exception in Section 212.004(a) excluding divisions of land into parts greater than five acres for platting requirements does not apply to a subdivision golf course.

(d) A new plat that is subject to this section may not be approved until each municipal authority reviewing the

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(A) that was originally developed as a golf course or a country club within a common scheme of development for a predominantly residential single-family development project;

(B) that was at any time in the seven years preceding the date on which a new plat for the land is filed:

(i) used as a golf course or a country club;

(ii) zoned as a community facility;

(iii) benefited from restrictive covenants on adjoining homeowners; or

(iv) designated on a recorded plat as a golf course or a country club; and

(C) that is not separated entirely from the predominantly residential single-family development project by a public street.

(c) In addition to any other requirement of this chapter, a new plat must conform to the requirements of this section if any of the area subject to the new plat is a subdivision golf course. The exception in Section 212.004(a) excluding divisions of land into parts greater than five acres for platting requirements does not apply to a subdivision golf course.

(d) A new plat that is subject to this section may not be approved until each municipal authority reviewing the

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new plat conducts a public hearing on the matter at which the parties in interest and citizens have an adequate opportunity to be heard, present evidence, and submit statements or petitions for consideration by the municipal authority. The number, location, and procedure for the public hearings may be designated by the municipal authority for a particular hearing. The municipal authority may abate, continue, or reschedule, as the municipal authority considers appropriate, any public hearing in order to receive a full and complete record on which to make a decision. If the new plat would otherwise be administratively approved, the municipal planning commission is the approving body for the purposes of this section.

(e) The municipal authority may not approve the new plat without adequate consideration of testimony and the record from the public hearings and making the findings required by Subsection (k). Sections 212.009(a) and (b) do not apply to the approval of plats under this section.

(f) **Notice** of the initial hearing required by Subsection (d) shall be given before the 15th day before the date of the hearing by:

(1) publishing notice in an official newspaper or a newspaper of general circulation in the county in which

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new plat conducts a public hearing on the matter at which the parties in interest and citizens have an adequate opportunity to be heard, present evidence, and submit statements or petitions for consideration by the municipal authority. The number, location, and procedure for the public hearings may be designated by the municipal authority for a particular hearing. The municipal authority may abate, continue, or reschedule, as the municipal authority considers appropriate, any public hearing in order to receive a full and complete record on which to make a decision. If the new plat would otherwise be administratively approved, the municipal planning commission is the approving body for the purposes of this section.

(e) The municipal authority may not approve the new plat without adequate consideration of testimony and the record from the public hearings and making the findings required by Subsection (k). **Not later than the 30th day after the date on which all proceedings necessary for the public hearings have concluded, the municipal authority shall take action on the application for the new plat.** Sections 212.009(a) and (b) do not apply to the approval of plats under this section.

(f) **The municipality may provide notice** of the initial hearing required by Subsection (d) **only after the requirements of Subsections (m) and (n) are met. The notice** shall be given before the 15th day before the date of the hearing by:

(1) publishing notice in an official newspaper or a newspaper of general circulation in the county in which

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the municipality is located;

(2) providing written notice, with a copy of this section attached, by the municipal authority responsible for approving plats to:

(A) each property owners' association for each neighborhood benefited by the subdivision golf course, as indicated in the most recently filed management certificates; and

(B) the owners of lots that are within 200 feet of the area subject to the new plat, as indicated:

(i) on the most recently approved municipal tax roll; and

(ii) in the most recent online records of the central appraisal district of the county in which the lots are located; and

(3) any other manner determined by the municipal authority to be necessary to ensure that full and fair notice is provided to all owners of residential single-family lots in the general vicinity of the subdivision golf course.

(g) The written notice required by Subsection (f)(2) may be delivered by depositing the notice, properly addressed with postage prepaid, in the United States mail.

(h) The cost of providing the notices under Subsection (f) shall be paid by the plat applicant.

(i) If written instruments protesting the proposed new plat are signed by the owners of at least 20 percent of the area of the lots or land immediately adjacent to the area covered by a proposed new plat and extending 200 feet from that area and are filed with the municipal planning commission or the municipality's governing body before

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the municipality is located;

(2) providing written notice, with a copy of this section attached, by the municipal authority responsible for approving plats to:

(A) each property owners' association for each neighborhood benefited by the subdivision golf course, as indicated in the most recently filed management certificates; and

(B) the owners of lots that are within 200 feet of the area subject to the new plat, as indicated:

(i) on the most recently approved municipal tax roll; and

(ii) in the most recent online records of the central appraisal district of the county in which the lots are located; and

(3) any other manner determined by the municipal authority to be necessary to ensure that full and fair notice is provided to all owners of residential single-family lots in the general vicinity of the subdivision golf course.

(g) The written notice required by Subsection (f)(2) may be delivered by depositing the notice, properly addressed with postage prepaid, in the United States mail.

(h) The cost of providing the notices under Subsection (f) shall be paid by the plat applicant.

(i) If written instruments protesting the proposed new plat are signed by the owners of at least 20 percent of the area of the lots or land immediately adjacent to the area covered by a proposed new plat and extending 200 feet from that area and are filed with the municipal planning commission or the municipality's governing body before

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the conclusion of the public hearings, the proposed new plat must receive, to be approved, the affirmative vote of at least three-fifths of the members of the municipal planning commission or governing body.

(j) In computing the percentage of land area under Subsection (i), the area of streets and alleys is included.

(k) The municipal planning commission or the municipality's governing body may not approve a new plat under this section unless it determines that:

(1) there is adequate existing or planned public infrastructure to support the future development of the subdivision golf course;

(2) based on existing or planned facilities, the development of the subdivision golf course will not have a materially adverse effect on traffic, parking, or drainage, water, sewer, or other utilities;

(3) the development of the subdivision golf course will not have a materially adverse effect on existing single-family property values;

(4) the new plat is consistent with all applicable land use regulations and restrictive covenants and the municipality's land use policies as described by the municipality's comprehensive plan or other appropriate public policy documents; and

(5) if any portion of a previous plat reflected a

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the conclusion of the public hearings, the proposed new plat must receive, to be approved, the affirmative vote of at least three-fifths of the members of the municipal planning commission or governing body.

(j) In computing the percentage of land area under Subsection (i), the area of streets and alleys is included.

(k) The municipal planning commission or the municipality's governing body may not approve a new plat under this section unless it determines that:

(1) there is adequate existing or planned infrastructure to support the future development of the subdivision golf course;

(2) based on existing or planned facilities, the development of the subdivision golf course will not have a materially adverse effect on:

(A) traffic, parking, drainage, water, sewer, or other utilities;

(B) the health, safety, or general welfare of persons in the municipality; or

(C) safe, orderly, and healthful development of the municipality;

(3) the development of the subdivision golf course will not have a materially adverse effect on existing single-family property values;

(4) the new plat is consistent with all applicable land use regulations and restrictive covenants and the municipality's land use policies as described by the municipality's comprehensive plan or other appropriate public policy documents; and

(5) if any portion of a previous plat reflected a

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restriction on the subdivision golf course:

(A) that restriction is not an implied covenant or easement benefiting adjacent residential properties; or

(B) if the restriction is an implied covenant or easement benefiting adjacent residential properties, the covenant or easement is legally released.

(l) For the purpose of the findings required by Subsection (k), the municipal authority may assume as the municipal authority determines to be appropriate the development of the subdivision golf course will be for:

(1) any currently permitted use under applicable zoning or restrictive covenants; or

(2) residential single-family development compatible with the residential single-family development in the neighborhood benefited by the subdivision golf course.

(m) The application for a new plat under this section is not complete and may not be submitted for review for administrative completeness unless the tax certificates required by Section 12.002(e), Property Code, are attached, notwithstanding that the application is for a type of plat other than a plat specified in that section.

(n) A plan for development or a new plat application for a subdivision golf course is not considered to provide fair notice of the project and nature of the permit sought unless it contains the following information, complete in

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restriction on the subdivision golf course whether:

(A) that restriction is an implied covenant or easement benefiting adjacent residential properties; or

(B) the restriction, covenant, or easement has been legally released or has expired.

(l) The municipal authority may adopt rules to govern the platting of a subdivision golf course that do not conflict with this section, including rules that require more detailed information than is required by Subsection (n) for plans for development and new plat applications.

(m) The application for a new plat under this section is not complete and may not be submitted for review for administrative completeness unless the tax certificates required by Section 12.002(e), Property Code, are attached, notwithstanding that the application is for a type of plat other than a plat specified in that section.

(n) A plan for development or a new plat application for a subdivision golf course is not considered to provide fair notice of the project and nature of the permit sought unless it contains the following information, complete in

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all material respects:

- (1) street layout;
- (2) lot and block layout;
- (3) number of residential units;
- (4) **square footage** of nonresidential development, by type of development;
- (5) drainage, detention, and retention plans;
- (6) screening plan for adjacent residential properties, including landscaping or fencing; and
- (7) an analysis of the effect of the project on values in the adjacent residential neighborhoods.
- (o) **The municipal authority with authority over platting may adopt rules requiring more detailed information for plans for development or new plat applications for a subdivision golf course than the information required by Subsection (n).**
- (p) A municipal authority with authority over platting may require as a condition for approval of a plat for a golf course that:
 - (1) the area be platted as a restricted reserve for the proposed use; and
 - (2) the plat be incorporated into the plat for any adjacent residential lots.
- (q) An owner of a lot that is within 200 feet of a subdivision golf course may seek declaratory or injunctive relief from a district court to enforce the provisions in this section.

SECTION 2. Section 82.051, Property Code, is

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all material respects:

- (1) street layout;
- (2) lot and block layout;
- (3) number of residential units;
- (4) **location** of nonresidential development, by type of development;
- (5) drainage, detention, and retention plans;
- (6) screening plan for adjacent residential properties, including landscaping or fencing; and
- (7) an analysis of the effect of the project on values in the adjacent residential neighborhoods.
- (o) A municipal authority with authority over platting may require as a condition for approval of a plat for a golf course that:
 - (1) the area be platted as a restricted reserve for the proposed use; and
 - (2) the plat be incorporated into the plat for any adjacent residential lots.
- (p) An owner of a lot that is within 200 feet of a subdivision golf course may seek declaratory or injunctive relief from a district court to enforce the provisions in this section.

SECTION 2. Section 82.051, Property Code, is

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amended by adding Subsection (f) to read as follows:

(f) This chapter does not permit development of a subdivision golf course, as defined by Section 212.0155(b), Local Government Code, without a plat if the plat is otherwise required by applicable law. A municipality or county may require as a condition to the development of a previously platted or unplatted subdivision golf course that the subdivision golf course be platted or replatted.

SECTION 3. (a) The change in law made by Section 212.0155, Local Government Code, as added by this Act, applies only to approval of a plat filed on or after the effective date of this Act. A plat filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) The change in law made by Section 212.0155, Local Government Code, as added by this Act, does not apply to a lawsuit filed before the effective date of this Act.

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amended by adding Subsection (f) to read as follows:

(f) This chapter does not permit development of a subdivision golf course, as defined by Section 212.0155(b), Local Government Code, without a plat if the plat is otherwise required by applicable law. A municipality may require as a condition to the development of a previously platted or unplatted subdivision golf course that the subdivision golf course be platted or replatted.

SECTION 3. (a) Notwithstanding Chapter 245, Local Government Code, the change in law made by Section 212.0155, Local Government Code, as added by this Act, applies to approval of a plat filed on or after the effective date of this Act or before the effective date of this Act if the approval of a plat filed before the effective date of this Act is not final. A plat filed and approved before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) The change in law made by Section 212.0155, Local Government Code, as added by this Act, does not apply to a lawsuit filed before the effective date of this Act. That section applies to land that is the subject of a lawsuit filed before the effective date of this Act on the date the decision in that lawsuit becomes final or the suit is otherwise terminated.

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SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

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Same as House version.

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