

## **BILL ANALYSIS**

Senate Research Center  
81R19885 JTS-D

H.B. 2833  
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Intergovernmental Relations  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 2833 amends current law relating to authorizing certain counties to adopt a building code in their unincorporated areas, and provides a penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 233, Local Government Code, by adding Subchapter F, as follows:

#### **SUBCHAPTER F. RESIDENTIAL BUILDING CODES IN CERTAIN COUNTIES**

Sec. 233.151. DEFINITION. Defines "new residential construction."

Sec. 233.152. APPLICABILITY. Provides that this subchapter applies only to a county that includes territory located within 50 miles of an international border, has a population of 700,000 or more, contains a municipality with a population of 550,000 or more, and contains one or more colonias or other developments composed of substandard housing; and a county whose commissioners court adopts a resolution stating that the county expects population expansion as a result of the recommendations of the federal Defense Base Closure and Realignment Commission.

Sec. 233.153. REGULATORY AUTHORITY. (a) Authorizes the commissioners court of a county to adopt a building code applicable to new residential construction in the unincorporated area of the county.

(b) Provides that a building code adopted under this subchapter applies only to new residential construction that begins after September 1, 2009.

(c) Provides that if a municipality located within a county to which this subchapter applies has adopted a building code in the municipality's extraterritorial jurisdiction, the building code adopted by the municipality controls and a building code adopted by the county has no effect in the municipality's extraterritorial jurisdiction.

(d) Prohibits this subchapter from being construed to require prior approval by the county before beginning new residential construction, authorize the commissioners court of a county to adopt or enforce zoning regulations, or affect the application of the provisions of Subchapter B (Subdivision Platting Requirements in County Near International Border), Chapter 232 (County Regulation of Subdivisions), to land development.

(e) Provides that in the event of a conflict between this subchapter and Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter 232, control.

Sec. 233.154. **BUILDING CODE REQUIREMENTS.** (a) Authorizes a building code adopted under Section 233.153 to contain only the same requirements as the statutory warranty and building and performance standards that apply to residential construction under Chapter 430 (Warranties and Building and Performance Standards), Property Code, and any rules governing those standards adopted by the Texas Residential Construction Commission (commission) under Title 16 (Texas Residential Construction Commission Act), Property Code.

(b) Requires that a building code adopted under Section 233.153 require a person who builds new residential construction to:

(1) have the new residential construction inspected by a third-party inspector approved by the commission at the time and in the manner prescribed by rules adopted by the commission;

(2) before commencing new residential construction, provide notice to the county of the location of the new residential construction on a form prescribed by the county, the date by which the new residential construction will be commenced, and the name of the third-party inspector who will inspect the new residential construction as required by Subdivision (1); and

(3) submit not later than the 10th day after the date of each inspection required by Subdivision (1) a written report prepared by the third-party inspector of the inspection and describing the results of the inspection to the county employee or department or agency of the county designated by the commissioners court of the county, and the person who purchased the new residential construction from the builder, if applicable.

Sec. 233.155. **BUILDING CODE ENFORCEMENT.** (a) Requires the county, to enforce compliance with a building code adopted under Section 233.153, to take any or all of the following actions: exercise the enforcement authority under Sections 233.157 and 233.158; refer a builder registered under Title 16, Property Code, who violates a provision of that title, or any rule adopted under that title, to the commission for disciplinary action; and refer a third-party inspector approved by the commission under Title 16, Property Code, who violates a provision of that title, or any rule adopted under that title, to that commission for disciplinary action.

(b) Authorizes the commission, notwithstanding any other law, including Section 430.005 (Alternative Standards for Certain Construction), Property Code, to take any action with regard to a builder or third-party inspector that it is authorized to take by any other law, including taking disciplinary action under Chapter 418 (Prohibited Practices; Disciplinary Proceedings), Property Code, or imposing an administrative penalty under Chapter 419 (Administrative Penalty), Property Code, with regard to new residential construction in a county that has adopted a building code authorized under this subchapter.

(c) Prohibits a county from charging a fee to a person regulated by a building code adopted under this subchapter to defray the costs of enforcing the code.

Sec. 233.156. **EXISTING AUTHORITY UNAFFECTED.** Provides that the authority granted by this subchapter does not affect the authority of a commissioners court to adopt an order under other law.

Sec. 233.157. **INJUNCTION.** Entitles the county, in a suit brought by the appropriate attorney representing the county in the district court, to appropriate injunctive relief to prevent the violation or threatened violation of a building code adopted under this subchapter from continuing or occurring.

Sec. 233.158. PENALTY; EXCEPTION. Provides that a person commits an offense if the person violates a restriction or prohibition imposed by a building code adopted under this subchapter. Provides that an offense under this section is a Class C misdemeanor.

SECTION 2. Effective date: upon passage or September 1, 2009.