

By: Guillen

H.B. No. 1656

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of certain municipalities and counties to
3 regulate platting requirements near an international border.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 212.012, Local Government Code, is
6 amended by amending Subsections (a), (c), (d), (e), and (f) and
7 adding Subsections (j) and (k) to read as follows:

8 (a) Except as provided by Subsection (c), (d), or (j), an
9 entity described by Subsection (b) may not serve or connect any land
10 with water, sewer, electricity, gas, or other utility service
11 unless the entity has been presented with or otherwise holds a
12 certificate applicable to the land issued under Section 212.0115.

13 (c) An entity described by Subsection (b) may serve or
14 connect land with water, sewer, electricity, gas, or other utility
15 service regardless of whether the entity is presented with or
16 otherwise holds a certificate applicable to the land issued under
17 Section 212.0115 if:

18 (1) the land is covered by a development plat approved
19 under Subchapter B or under an ordinance or rule relating to the
20 development plat;

21 (2) the land was first served or connected with
22 service by an entity described by Subsection (b)(1), (b)(2), or
23 (b)(3) before September 1, 1987; or

24 (3) the land was first served or connected with

1 service by an entity described by Subsection (b)(4), (b)(5), or
2 (b)(6) before September 1, 1989~~;~~ ~~or~~

3 ~~[(4) the municipal authority responsible for~~
4 ~~approving plats issues a certificate stating that:~~

5 ~~[(A) the land:~~

6 ~~[(i) was sold or conveyed to the person~~
7 ~~requesting service by any means of conveyance, including a contract~~
8 ~~for deed or executory contract, before:~~

9 ~~[(a) September 1, 1995, in a county~~
10 ~~defined under Section 232.022(a)(1); or~~

11 ~~[(b) September 1, 2005, in a county~~
12 ~~defined under Section 232.022(a)(2);~~

13 ~~[(ii) is located in a subdivision in which~~
14 ~~the entity has previously provided service;~~

15 ~~[(iii) is located outside the limits of the~~
16 ~~municipality;~~

17 ~~[(iv) is located in a county to which~~
18 ~~Subchapter B, Chapter 232, applies; and~~

19 ~~[(v) is the site of construction of a~~
20 ~~residence, evidenced by at least the existence of a completed~~
21 ~~foundation, that was begun on or before:~~

22 ~~[(a) May 1, 1997, in a county defined~~
23 ~~under Section 232.022(a)(1); or~~

24 ~~[(b) September 1, 2005, in a county~~
25 ~~defined under Section 232.022(a)(2); or~~

26 ~~[(B) the land was not subdivided after September~~
27 ~~1, 1995, in a county defined under Section 232.022(a)(1); or~~

1 ~~September 1, 2005, in a county defined under Section 232.022(a)(2),~~
2 ~~and:~~

3 ~~[(i) water service is available within 750~~
4 ~~feet of the subdivided land; or~~

5 ~~[(ii) water service is available more than~~
6 ~~750 feet from the subdivided land and the extension of water service~~
7 ~~to the land may be feasible, subject to a final determination by the~~
8 ~~water service provider].~~

9 (d) In a county to which Subchapter B, Chapter 232, applies,
10 an entity described by Subsection (b) may serve or connect land with
11 water, sewer, electricity, gas, or other utility service that is
12 located in the extraterritorial jurisdiction of a municipality
13 regardless of whether the entity is presented with or otherwise
14 holds a certificate applicable to the land issued under Section
15 212.0115, if the municipal authority responsible for approving
16 plats issues a certificate stating that:

17 (1) the subdivided land:

18 (A) was sold or conveyed by a subdivider by any
19 means of conveyance, including a contract for deed or executory
20 contract, before:

21 (i) September 1, 1995, in a county defined
22 under Section 232.022(a)(1);

23 (ii) September 1, 1999, in a county defined
24 under Section 232.022(a)(1) if, on August 31, 1999, the subdivided
25 land was located in the extraterritorial jurisdiction of a
26 municipality as determined by Chapter 42; or

27 (iii) September 1, 2005, in a county

1 defined under Section 232.022(a)(2);

2 (B) has not been subdivided after September 1,
3 1995, September 1, 1999, or September 1, 2005, as applicable under
4 Paragraph (A);

5 (C) is the site of construction of a residence,
6 evidenced by at least the existence of a completed foundation, that
7 was begun on or before:

8 (i) May 1, 2003, in a county defined under
9 Section 232.022(a)(1); or

10 (ii) September 1, 2005, in a county defined
11 under Section 232.022(a)(2); and

12 (D) has had adequate sewer services installed to
13 service the lot or dwelling;

14 (2) the subdivided land is a lot of record as defined
15 by Section 232.021(6-a) that is located in a county defined by
16 Section 232.022(a)(1) and has adequate sewer services installed
17 that are fully operable to service the lot or dwelling; or

18 (3) the land was not subdivided after September 1,
19 1995, in a county defined under Section 232.022(a)(1), or September
20 1, 2005, in a county defined under Section 232.022(a)(2), and:

21 (A) water service is available within 750 feet of
22 the subdivided land; or

23 (B) water service is available more than 750 feet
24 from the subdivided land and the extension of water service to the
25 land may be feasible, subject to a final determination by the water
26 service provider.

27 (e) An entity described by Subsection (b) may provide

1 utility service to land described by Subsection (d)(1), (2), or (3)
2 [~~Subsection (c)(4)(A)~~] only if the person requesting service[+
3 ~~(1) is not the land's subdivider or the subdivider's~~
4 ~~agent, and~~
5 ~~(2)~~ provides to the entity a certificate described
6 by Subsection (d) [~~(c)(4)(A)~~].

7 (f) [~~(e)~~] A person requesting service may obtain a
8 certificate under Subsection (d)(1), (2), or (3) [~~Subsection~~
9 ~~(c)(4)(A)~~] only if the person is the owner or purchaser of the
10 subdivided land and provides to the municipal authority responsible
11 for approving plats documentation containing [~~either~~]:

12 (1) a copy of the means of conveyance or other
13 documents that show that the land was sold or conveyed by a
14 subdivider [~~to the person requesting service~~] before September 1,
15 1995, before September 1, 1999, or before September 1, 2005, as
16 applicable under Subsection (d) [~~, and a notarized affidavit by that~~
17 ~~person that states that construction of a residence on the land,~~
18 ~~evidenced by at least the existence of a completed foundation, was~~
19 ~~begun on or before May 1, 1997, or on or before September 1, 2005, as~~
20 ~~applicable~~]; [~~or~~]

21 (2) for a certificate issued under Subsection (d)(1),
22 a notarized affidavit by the person requesting service that states
23 that [~~the property was sold or conveyed to that person before~~
24 ~~September 1, 1995, or before September 1, 2005, as applicable, and~~
25 ~~that~~] construction of a residence on the land, evidenced by at least
26 the existence of a completed foundation, was begun on or before May
27 1, 2003, in a county defined by Section 232.022(a)(1) or September

1 1, 2005, in a county defined by Section 232.022(a)(2), and the
2 request for utility connection or service is to connect or serve a
3 residence described by Subsection (d)(1)(C);

4 (3) a notarized affidavit by the person requesting
5 service that states that the subdivided land has not been further
6 subdivided after September 1, 1995, September 1, 1999, or September
7 1, 2005, as applicable under Subsection (d); and

8 (4) evidence that adequate sewer service or facilities
9 have been installed and are fully operable to service the lot or
10 dwelling from an entity described by Subsection (b) or the
11 authorized agent responsible for the licensing or permitting of
12 on-site sewage facilities under Chapter 366, Health and Safety Code
13 [May 1, 1997, or on or before September 1, 2005, as applicable].

14 ~~[(f) A person requesting service may obtain a certificate~~
15 ~~under Subsection (c)(4)(B) only if the person provides to the~~
16 ~~municipal authority responsible for approving plats an affidavit~~
17 ~~that states that the property was not sold or conveyed to that~~
18 ~~person from a subdivider or the subdivider's agent after September~~
19 ~~1, 1995, or after September 1, 2005, as applicable.]~~

20 (j) Except as provided by Subsection (k), this section does
21 not prohibit a water or sewer utility from providing in a county
22 defined by Section 232.022(a)(1) water or sewer utility connection
23 or service to a residential dwelling that:

24 (1) is provided water or wastewater facilities under
25 or in conjunction with a federal or state funding program designed
26 to address inadequate water or wastewater facilities in colonias or
27 to residential lots located in a county described by Section

1 232.022(a)(1);

2 (2) is an existing dwelling identified as an eligible
3 recipient for funding by the funding agency providing adequate
4 water and wastewater facilities or improvements;

5 (3) when connected, will comply with the minimum state
6 standards for both water and sewer facilities and as prescribed by
7 the model subdivision rules adopted under Section 16.343, Water
8 Code; and

9 (4) is located in a project for which the municipality
10 with jurisdiction over the project or the approval of plats within
11 the project area has approved the improvement project by order,
12 resolution, or interlocal agreement under Chapter 791, Government
13 Code.

14 (k) A utility may not serve any subdivided land with water
15 utility connection or service under Subsection (j) unless the
16 entity receives a determination that adequate sewer services have
17 been installed to service the lot or dwelling from the municipal
18 authority responsible for approving plats, an entity described by
19 Subsection (b), or the authorized agent responsible for the
20 licensing or permitting of on-site sewage facilities pursuant to
21 Chapter 366, Health and Safety Code.

22 SECTION 2. Section 232.021, Local Government Code, is
23 amended by adding Subdivision (6-a) and amending Subdivision (12)
24 to read as follows:

25 (6-a) "Lot of record" means:

26 (A) a lot, the boundaries of which were
27 established by a plat recorded in the office of the county clerk

1 before September 1, 1989, that has not been subdivided after
2 September 1, 1989; or

3 (B) a lot, the boundaries of which were
4 established by a metes and bounds description in a deed of
5 conveyance, a contract of sale, or other executory contract to
6 convey real property that has been legally executed and recorded in
7 the office of the county clerk before September 1, 1989, that has
8 not been subdivided after September 1, 1989.

9 (12) "Subdivider" means an individual, firm,
10 corporation, or other legal entity [~~that owns any interest in land~~
11 ~~and~~] that directly or indirectly subdivides land into lots for sale
12 or lease as part of a common promotional plan in the ordinary course
13 of business.

14 SECTION 3. Section 232.024(b), Local Government Code, is
15 amended to read as follows:

16 (b) If any part of a plat applies to land intended for
17 residential housing and any part of that land lies in a floodplain,
18 the commissioners court shall not approve the plat unless:

19 (1) the subdivision is developed in compliance with
20 the minimum requirements of the National Flood Insurance Program
21 and local regulations or orders adopted under Section 16.315, Water
22 Code; and

23 (2) the plat evidences a restrictive covenant
24 prohibiting [~~as required by this subsection. The restrictive~~
25 ~~covenant shall prohibit~~] the construction of residential housing in
26 any area of the subdivision that is in a floodplain unless the
27 housing is developed in compliance with the minimum requirements of

1 ~~[qualifies for insurance under]~~ the National Flood Insurance
2 Program and local regulations or orders adopted under Section
3 16.315, Water Code ~~[Act of 1968 (42 U.S.C. Sections 4001 through~~
4 ~~4127)]~~.

5 SECTION 4. Section 232.028(b), Local Government Code, is
6 amended to read as follows:

7 (b) On the commissioners court's own motion or on the
8 written request of a subdivider, an owner or resident of a lot in a
9 subdivision, or an entity that provides a utility service, the
10 commissioners court shall make the following determinations
11 regarding the land in which the entity or commissioners court is
12 interested that is located within the jurisdiction of the county:

13 (1) whether a plat has been prepared and whether it has
14 been reviewed and approved by the commissioners court;

15 (2) whether water service facilities have been
16 constructed or installed to service the lot or subdivision under
17 Section 232.023 and are fully operable;

18 (3) whether sewer service facilities have been
19 constructed or installed to service the lot or subdivision under
20 Section 232.023 and are fully operable, or if septic systems are
21 used, whether the lot is served by a permitted on-site sewage
22 facility or lots in the subdivision can be adequately and legally
23 served by septic systems under Section 232.023; and

24 (4) whether electrical and gas facilities, if
25 available, have been constructed or installed to service the lot or
26 subdivision under Section 232.023.

27 SECTION 5. Section 232.029, Local Government Code, is

1 amended by amending Subsections (b), (c), (d), (e), and (i) and
2 adding Subsections (n) and (o) to read as follows:

3 (b) Except as provided by Subsections (c) and (k) or Section
4 232.037(c), a utility may not serve or connect any subdivided land
5 with electricity or gas unless the entity receives a determination
6 from the county commissioners court under Sections 232.028(b)(2)
7 and (3) [~~Section 232.028(b)(2)~~] that adequate water and sewer
8 services have been installed to service the lot or subdivision.

9 (c) An electric, gas, water, or sewer service utility may
10 serve or connect subdivided land with water, sewer, electricity,
11 gas, or other utility service regardless of whether the utility
12 receives a certificate issued by the commissioners court under
13 Section 232.028(a) or receives a determination from the
14 commissioners court under Section 232.028(b) if the utility is
15 provided with a certificate issued by the commissioners court that
16 states that:

17 (1) the subdivided land:

18 (A) was sold or conveyed by a subdivider [~~to the~~
19 ~~person requesting service~~] by any means of conveyance, including a
20 contract for deed or executory contract:

21 (i) before September 1, 1995; or

22 (ii) before September 1, 1999, if the
23 subdivided land on August 31, 1999, was located in the
24 extraterritorial jurisdiction of a municipality as determined by
25 Chapter 42;

26 (B) has not been subdivided after September 1,
27 1995, or September 1, 1999, as applicable under Paragraph (A) [~~is~~

1 ~~located in a subdivision in which the utility has previously~~
2 ~~provided service]; [and]~~

3 (C) is the site of construction of a residence,
4 evidenced by at least the existence of a completed foundation, that
5 was begun[+

6 [~~(i) on or before May 1, 1997; or~~

7 [~~(ii)] on or before May 1, 2003; and~~

8 (D) has had adequate sewer services installed to
9 service the lot or dwelling;

10 (2) the subdivided land is a lot of record and has
11 adequate sewer services installed that are fully operable to
12 service the lot or dwelling[~~, if the subdivided land on August 31,~~
13 ~~1999, was located in the extraterritorial jurisdiction of a~~
14 ~~municipality as determined by Chapter 42]; or~~

15 (3) [~~(2)]~~ the land was not subdivided after September
16 1, 1995, and:

17 (A) water service is available within 750 feet of
18 the subdivided land; or

19 (B) water service is available more than 750 feet
20 from the subdivided land and the extension of water service to the
21 land may be feasible, subject to a final determination by the water
22 service provider.

23 (d) A utility may provide utility service to subdivided land
24 described by Subsection (c)(1), (2), or (3) only if the person
25 requesting service:

26 (1) is not the land's subdivider or the subdivider's
27 agent; and

1 (2) provides to the utility a certificate described by
2 Subsection (c) [~~(c)(1)~~].

3 (e) A person requesting service may obtain a certificate
4 under Subsection (c)(1), (2), or (3) only if the person is the owner
5 or purchaser of the subdivided land and provides to the
6 commissioners court documentation containing [~~either~~]:

7 (1) [~~documentation containing:~~

8 [~~(A)~~] a copy of the means of conveyance or other
9 documents that show that the land was sold or conveyed by a
10 subdivider before September 1, 1995, or before September 1, 1999,
11 as applicable under Subsection (c);

12 (2) [~~to the person requesting service:~~

13 [~~(i) before September 1, 1995, or~~

14 [~~(ii) before September 1, 1999, if the~~
15 ~~subdivided land on August 31, 1999, was located in the~~
16 ~~extraterritorial jurisdiction of a municipality as determined by~~
17 ~~Chapter 42, and~~

18 [~~(B)~~] a notarized affidavit by that person
19 requesting service under Subsection (c)(1) that states that
20 construction of a residence on the land, evidenced by at least the
21 existence of a completed foundation, was begun[+]

22 [~~(i) on or before May 1, 1997, or~~

23 [~~(ii)~~] on or before May 1, 2003, and the
24 request for utility connection or service is to connect or serve a
25 residence described by Subsection (c)(1)(C);

26 (3) [~~, if the subdivided land on August 31, 1999, was~~
27 ~~located in the extraterritorial jurisdiction of a municipality as~~

1 ~~determined by Chapter 42; or~~

2 ~~[(2)]~~ a notarized affidavit by the person requesting
3 service that states that the subdivided land has not been further
4 subdivided after~~+~~

5 ~~[(A) the property was sold or conveyed to that~~
6 ~~person;~~

7 ~~[(i) before]~~ September 1, 1995, ~~+~~ or

8 ~~[(ii) before]~~ September 1, 1999, as
9 applicable under Subsection (c); and

10 (4) evidence that adequate sewer service or facilities
11 have been installed and are fully operable to service the lot or
12 dwelling from an entity described by Section 232.021(14) or the
13 authorized agent responsible for the licensing or permitting of
14 on-site sewage facilities under Chapter 366, Health and Safety Code
15 ~~[if the subdivided land on August 31, 1999, was located in the~~
16 ~~extraterritorial jurisdiction of a municipality as determined by~~
17 ~~Chapter 42; and~~

18 ~~[(B) construction of a residence on the land,~~
19 ~~evidenced by at least the existence of a completed foundation, was~~
20 ~~begun;~~

21 ~~[(i) on or before May 1, 1997; or~~

22 ~~[(ii) on or before May 1, 2003, if the~~
23 ~~subdivided land on August 31, 1999, was located in the~~
24 ~~extraterritorial jurisdiction of a municipality as determined by~~
25 ~~Chapter 42].~~

26 (i) The prohibition established by this section shall not
27 prohibit a water, sewer, ~~an~~ electric, or gas utility from

1 providing water, sewer, electric, or gas utility connection or
2 service to a lot [~~being~~] sold, conveyed, or purchased through a
3 contract for deed or executory contract or other device by a
4 subdivider prior to July 1, 1995, or September 1, 1999, if on August
5 31, 1999, the subdivided land was located in the extraterritorial
6 jurisdiction of a municipality that has adequate sewer services
7 installed that are fully operable to service the lot [~~which is~~
8 ~~located within a subdivision where the utility has previously~~
9 ~~established service~~] and was subdivided by a plat approved prior to
10 September 1, 1989.

11 (n) Except as provided by Subsection (o), this section does
12 not prohibit a water or sewer utility from providing water or sewer
13 utility connection or service to a residential dwelling that:

14 (1) is provided water or wastewater facilities under
15 or in conjunction with a federal or state funding program designed
16 to address inadequate water or wastewater facilities in colonias or
17 to residential lots located in a county described by Section
18 232.022(a)(1);

19 (2) is an existing dwelling identified as an eligible
20 recipient for funding by the funding agency providing adequate
21 water and wastewater facilities or improvements;

22 (3) when connected, will comply with the minimum state
23 standards for both water and sewer facilities and as prescribed by
24 the model subdivision rules adopted under Section 16.343, Water
25 Code; and

26 (4) is located in a project for which the municipality
27 with jurisdiction over the project or the approval of plats within

1 the project area has approved the improvement project by order,
2 resolution, or interlocal agreement under Chapter 791, Government
3 Code, if applicable.

4 (o) A utility may not serve any subdivided land with water
5 utility connection or service under Subsection (n) unless the
6 entity receives a determination from the county commissioners court
7 under Section 232.028(b)(3) that adequate sewer services have been
8 installed to service the lot or dwelling.

9 SECTION 6. Section 232.029(f), Local Government Code, is
10 repealed.

11 SECTION 7. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2009.