

By: Marquez, et al.

H.B. No. 2833

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain counties to adopt a building code in their unincorporated areas; providing a penalty.

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

SECTION 1. Chapter 233, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. RESIDENTIAL BUILDING CODES IN CERTAIN COUNTIES

Sec. 233.151. DEFINITION. In this subchapter, "new residential construction" includes:

(1) residential construction on a vacant lot; and

(2) construction of an addition to an existing residence, if the addition will increase the square footage or value of the existing residential building by more than 50 percent.

Sec. 233.152. APPLICABILITY. This subchapter applies only to:

(1) a county that:

(A) includes territory located within 50 miles of an international border;

(B) has a population of 700,000 or more;

(C) contains a municipality with a population of 550,000 or more; and

(D) contains one or more colonias or other developments composed of substandard housing; and

(2) a county whose commissioners court adopts a

1 resolution stating that the county expects population expansion as
2 a result of the recommendations of the federal Defense Base Closure
3 and Realignment Commission.

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

7 (b) A building code adopted under this subchapter applies
8 only to new residential construction that begins after September 1,
9 2009.

10 (c) If a municipality located within a county to which this
11 subchapter applies has adopted a building code in the
12 municipality's extraterritorial jurisdiction, the building code
13 adopted by the municipality controls and a building code adopted by
14 the county has no effect in the municipality's extraterritorial
15 jurisdiction.

16 (d) This subchapter may not be construed to:

17 (1) require prior approval by the county before
18 beginning new residential construction;

19 (2) authorize the commissioners court of a county to
20 adopt or enforce zoning regulations; or

21 (3) affect the application of the provisions of
22 Subchapter B, Chapter 232, to land development.

23 (e) In the event of a conflict between this subchapter and
24 Subchapter B, Chapter 232, the provisions of Subchapter B, Chapter
25 232, control.

26 Sec. 233.154. BUILDING CODE REQUIREMENTS. (a) A building
27 code adopted under Section 233.153 may contain only the same

1 requirements as the statutory warranty and building and performance
2 standards that apply to residential construction under Chapter 430,
3 Property Code, and any rules governing those standards adopted by
4 the Texas Residential Construction Commission under Title 16,
5 Property Code.

6 (b) A building code adopted under Section 233.153 shall
7 require a person who builds new residential construction to:

8 (1) have the new residential construction inspected by
9 a third-party inspector approved by the Texas Residential
10 Construction Commission at the time and in the manner prescribed by
11 rules adopted by the commission;

12 (2) before commencing new residential construction,
13 provide notice to the county of:

14 (A) the location of the new residential
15 construction on a form prescribed by the county;

16 (B) the date by which the new residential
17 construction will be commenced; and

18 (C) the name of the third-party inspector who
19 will inspect the new residential construction as required by
20 Subdivision (1); and

21 (3) submit not later than the 10th day after the date
22 of each inspection required by Subdivision (1) a written report
23 prepared by the third-party inspector of the inspection and
24 describing the results of the inspection to:

25 (A) the county employee or department or agency
26 of the county designated by the commissioners court of the county;

27 and

1 (B) the person who purchased the new residential
2 construction from the builder, if applicable.

3 Sec. 233.155. BUILDING CODE ENFORCEMENT. (a) To enforce
4 compliance with a building code adopted under Section 233.153, the
5 county may take any or all of the following actions:

6 (1) exercise the enforcement authority under Sections
7 233.157 and 233.158;

8 (2) refer a builder registered under Title 16,
9 Property Code, who violates a provision of that title, or any rule
10 adopted under that title, to the Texas Residential Construction
11 Commission for disciplinary action; and

12 (3) refer a third-party inspector approved by the
13 Texas Residential Construction Commission under Title 16, Property
14 Code, who violates a provision of that title, or any rule adopted
15 under that title, to that commission for disciplinary action.

16 (b) Notwithstanding any other law, including Section
17 430.005, Property Code, the Texas Residential Construction
18 Commission may take any action with regard to a builder or
19 third-party inspector that it is authorized to take by any other
20 law, including taking disciplinary action under Chapter 418,
21 Property Code, or imposing an administrative penalty under Chapter
22 419, Property Code, with regard to new residential construction in
23 a county that has adopted a building code authorized under this
24 subchapter.

25 (c) A county may not charge a fee to a person regulated by a
26 building code adopted under this subchapter to defray the costs of
27 enforcing the code.

1 Sec. 233.156. EXISTING AUTHORITY UNAFFECTED. The authority
2 granted by this subchapter does not affect the authority of a
3 commissioners court to adopt an order under other law.

4 Sec. 233.157. INJUNCTION. The county, in a suit brought by
5 the appropriate attorney representing the county in the district
6 court, is entitled to appropriate injunctive relief to prevent the
7 violation or threatened violation of a building code adopted under
8 this subchapter from continuing or occurring.

9 Sec. 233.158. PENALTY; EXCEPTION. A person commits an
10 offense if the person violates a restriction or prohibition imposed
11 by a building code adopted under this subchapter. An offense under
12 this section is a Class C misdemeanor.

13 SECTION 2. 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, 2009.