

By: Shapleigh

S.B. No. 1365

A BILL TO BE ENTITLED

AN ACT

relating to development regulations in certain flood-prone counties; providing civil and criminal penalties.

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

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. DEVELOPMENT REGULATIONS IN CERTAIN FLOOD-PRONE COUNTIES

Sec. 231.331. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area described by Section 231.332 is located within a watershed that drains into the Rio Grande;

(2) the geology and topography of the area substantially consist of rock formations, sparse desert flora, and mountains;

(3) the area is subject to extreme flooding, including flash flooding, that has endangered and will continue to endanger lives and property in the area;

(4) the area supports a major United States military facility;

(5) the area borders a city that serves as:

(A) the state capital of a major country that borders this state; and

(B) a major commercial gateway to this state and

1 to the United States;

2 (6) orderly development of the area and the watershed  
3 is of concern to this state and the United States; and

4 (7) without adequate development regulations, the  
5 area and the watershed will be developed in ways that endanger and  
6 interfere with the defense of the United States, international  
7 travel, lives and property, and commerce to the detriment of the  
8 public health, safety, morals, and general welfare.

9 (b) The powers granted under this subchapter are for the  
10 purpose of:

11 (1) promoting the public health, safety, and general  
12 welfare;

13 (2) encouraging national defense and commerce and  
14 transportation within and without this state; and

15 (3) safeguarding and preventing public infrastructure  
16 and private property from destruction.

17 Sec. 231.332. AREAS SUBJECT TO REGULATION. This subchapter  
18 applies only to the unincorporated areas of a county that:

19 (1) has a population of more than 650,000;

20 (2) has within its borders all or part of a major  
21 military facility occupied by the United States Army; and

22 (3) is bordered by another country.

23 Sec. 231.333. DEVELOPMENT REGULATIONS GENERALLY. The  
24 commissioners court of a county to which this subchapter applies  
25 may regulate:

26 (1) the percentage of a lot that may be occupied or  
27 developed;

1           (2) population density;

2           (3) the size of buildings;

3           (4) the location, design, construction, extension,  
4 and size of streets and roads;

5           (5) the location, design, construction, extension,  
6 size, and installation of water and wastewater facilities,  
7 including the requirements for connecting to a centralized water or  
8 wastewater system;

9           (6) the location, design, construction, extension,  
10 size, and installation of drainage facilities and other required  
11 public facilities;

12           (7) the location, design, and construction of parks,  
13 playgrounds, and recreational areas;

14           (8) the abatement of harm resulting from inadequate  
15 water or wastewater facilities; and

16           (9) the use of buildings, other structures, or land.

17           Sec. 231.334. COMPLIANCE WITH COUNTY PLAN. Development  
18 regulations must be:

19           (1) adopted in accordance with a county plan for  
20 growth and development of the county; and

21           (2) coordinated with the comprehensive plans of  
22 municipalities located in the county.

23           Sec. 231.335. DISTRICTS. (a) The commissioners court may  
24 divide the unincorporated area of the county into zones or  
25 districts of a number, shape, and size the court considers best for  
26 carrying out this subchapter.

27           (b) The development regulations must be uniform for each

1 class or kind of building in a district, but the regulations may  
2 vary from zone to zone or district to district. The regulations  
3 shall be adopted with reasonable consideration, among other things,  
4 for the character of each zone or district and its peculiar  
5 suitability for particular uses, with a view of conserving the  
6 value of buildings and encouraging the most appropriate use of land  
7 throughout the area.

8 Sec. 231.336. PROCEDURE GOVERNING ADOPTION OF REGULATIONS  
9 AND DISTRICT BOUNDARIES. (a) A development regulation adopted  
10 under this subchapter is not effective until it is adopted by the  
11 commissioners court after a public hearing. Before the 15th day  
12 before the date of the hearing, the commissioners court must  
13 publish notice of the hearing in a newspaper of general circulation  
14 in the county.

15 (b) The commissioners court may establish or amend a  
16 development regulation only by an order passed by a majority vote of  
17 the full membership of the court.

18 Sec. 231.337. DEVELOPMENT COMMISSION. (a) The  
19 commissioners court may appoint a development commission to assist  
20 in the implementation and enforcement of development regulations  
21 adopted under this subchapter.

22 (b) The development commission must consist of an ex officio  
23 presiding officer who must be a public official in a county and four  
24 additional members.

25 (c) The development commission is advisory only and may  
26 recommend appropriate development regulations for the county.

27 (d) The members of the development commission are subject to

1 the same requirements relating to conflicts of interest that are  
2 applicable to the commissioners court under Chapter 171.

3 Sec. 231.338. SPECIAL EXCEPTION. (a) A person aggrieved by  
4 a development regulation adopted under this subchapter may petition  
5 the commissioners court or the development commission, if the  
6 commissioners court has established a development commission, for a  
7 special exception to a development regulation adopted by the  
8 commissioners court.

9 (b) The commissioners court shall adopt procedures  
10 governing applications, notice, hearings, and other matters  
11 relating to the grant of a special exception.

12 Sec. 231.339. ENFORCEMENT; PENALTY. (a) The commissioners  
13 court may adopt orders to enforce this subchapter or an order or  
14 development regulation adopted under this subchapter.

15 (b) A person commits an offense if the person violates this  
16 subchapter or an order or development regulation adopted under this  
17 subchapter. An offense under this subsection is a misdemeanor  
18 punishable by a fine of not less than \$500 or more than \$1,000. Each  
19 day that a violation occurs constitutes a separate offense. Trial  
20 shall be in the district court.

21 (c) The commissioners court may provide civil penalties for  
22 a violation.

23 (d) If a building or other structure is erected,  
24 constructed, reconstructed, altered, repaired, converted, or  
25 maintained or if a building, other structure, or land is used in  
26 violation of this subchapter, an order adopted under this  
27 subchapter, or a zoning regulation, the appropriate county

1 authority, in addition to other remedies, may institute appropriate  
2 action to:

3 (1) prevent the unlawful erection, construction,  
4 reconstruction, alteration, repair, conversion, maintenance, or  
5 use;

6 (2) restrain, correct, or abate the violation;

7 (3) prevent the occupancy of the building, structure,  
8 or land; or

9 (4) prevent any illegal act, conduct, business, or use  
10 on or about the premises.

11 Sec. 231.340. COOPERATION WITH MUNICIPALITIES. The  
12 commissioners court by order may enter into agreements with any  
13 municipality located in the county to assist in the implementation  
14 and enforcement of development regulations adopted under this  
15 subchapter.

16 Sec. 231.341. CONFLICT WITH OTHER LAWS. If a development  
17 regulation adopted under this subchapter imposes higher standards  
18 than those required under another statute or local order or  
19 regulation, the regulation adopted under this subchapter controls.  
20 If the other statute or local order or regulation imposes higher  
21 standards, that statute, order, or regulation controls.

22 SECTION 2. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2009.