

1-1 By: Lucio S.B. No. 1370
1-2 (In the Senate - Filed March 4, 2009; March 17, 2009, read
1-3 first time and referred to Committee on International Relations and
1-4 Trade; April 22, 2009, reported favorably by the following vote:
1-5 Yeas 4, Nays 0; April 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to authorizing certain counties and municipalities to
1-9 regulate land development; providing a penalty.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 242, Local Government Code, is amended
1-12 by adding Subchapter B to read as follows:

1-13 SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND
1-14 MUNICIPALITIES

1-15 Sec. 242.051. APPLICABILITY. This subchapter applies only
1-16 to:

1-17 (1) a county that includes territory located within 50
1-18 miles of an international border; or

1-19 (2) a municipality located in that county if:

1-20 (A) the county does not exercise in the
1-21 municipality's extraterritorial jurisdiction the authority
1-22 described by this subchapter; and

1-23 (B) the county by resolution authorizes the
1-24 municipality to exercise in the municipality's extraterritorial
1-25 jurisdiction the authority described by this subchapter.

1-26 Sec. 242.052. REGULATORY AUTHORITY. (a) The
1-27 commissioners court of a county to which this subchapter applies
1-28 may, by order, regulate residential land development in the
1-29 unincorporated area of the county. The governing body of a
1-30 municipality to which this subchapter applies may, by ordinance,
1-31 regulate residential land development in the municipality's
1-32 extraterritorial jurisdiction. By this authority, the
1-33 commissioners court or governing body may prevent the proliferation
1-34 of colonias by:

1-35 (1) adopting regulations relating to:

1-36 (A) maximum densities, including the size of
1-37 lots;

1-38 (B) the height, number of stories, size, or
1-39 number of buildings or other structures that may be located on a lot
1-40 or tract;

1-41 (C) the location of buildings and other
1-42 structures on a lot or tract; and

1-43 (D) the preparation of a plan for utility
1-44 development, environmental effect and adaptation, utility
1-45 extension, and capacity planning and providing financial analysis
1-46 of said plan; and

1-47 (2) adopting building codes to promote safe and
1-48 uniform building, plumbing, and electrical standards.

1-49 (b) If a tract of land is appraised as agricultural or
1-50 open-space land by the appraisal district, the commissioners court
1-51 or governing body may not regulate land development on that tract
1-52 under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or
1-53 (a)(2).

1-54 (c) The authority granted under this section does not
1-55 authorize the commissioners court or governing body to adopt an
1-56 order regulating commercial property that is uninhabitable.

1-57 (d) The authority granted under this section does not
1-58 authorize the commissioners court or governing body to adopt an
1-59 order that limits or otherwise impairs the rights of individuals or
1-60 entities in the exploration, development, or production of oil,
1-61 gas, or other minerals.

1-62 Sec. 242.053. BUILDING PERMITS. (a) The county or
1-63 municipality, as appropriate, shall issue a building permit if the
1-64 person submitting the application for the permit:

2-1 (1) files information relating to the location of the
2-2 residence;
2-3 (2) files the building plans for the residence; and
2-4 (3) complies with the applicable regulations relating
2-5 to the issuance of the permit.

2-6 (b) The county or municipality may charge a reasonable
2-7 building permit fee.

2-8 (c) The county or municipality shall deposit fees collected
2-9 under this section in an account in its general fund and dedicate
2-10 the fees to the building permit program. The funds in the account
2-11 may be used only for the purpose of administering the building
2-12 permit program.

2-13 Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
2-14 ORDER. If an order adopted by the county under this subchapter
2-15 conflicts with an ordinance of a municipality, the municipal
2-16 ordinance prevails within the municipality's jurisdiction to the
2-17 extent of the conflict.

2-18 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority
2-19 granted by this subchapter does not affect the authority of the
2-20 commissioners court or governing body to adopt an order or
2-21 ordinance under other law.

2-22 Sec. 242.056. INJUNCTION. The county or municipality, in a
2-23 suit brought by the appropriate attorney representing the county or
2-24 municipality in the district court, is entitled to appropriate
2-25 injunctive relief to prevent the violation or threatened violation
2-26 of the entity's order or ordinance adopted under this subchapter
2-27 from continuing or occurring.

2-28 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an
2-29 offense if the person violates a restriction or prohibition imposed
2-30 by an order or ordinance adopted under this subchapter. An offense
2-31 under this section is a Class C misdemeanor.

2-32 (b) It is an exception to the application of this section
2-33 that:

2-34 (1) the person is an owner-occupant of a residential
2-35 dwelling that is classified by the Texas Department of Housing and
2-36 Community Affairs as a low-income household;

2-37 (2) the dwelling was constructed before the effective
2-38 date of this subchapter;

2-39 (3) the violation related to a building standard or
2-40 building code for that dwelling; and

2-41 (4) the county or municipality, as appropriate:

2-42 (A) did not make available to the person a grant
2-43 or loan in an amount sufficient to cure the violation; or

2-44 (B) made available to the person a loan that was
2-45 sufficient to cure the violation but that caused the housing
2-46 expenses of the person to exceed 30 percent of the person's net
2-47 income.

2-48 SECTION 2. The heading to Chapter 242, Local Government
2-49 Code, is amended to read as follows:

2-50 CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
2-51 SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~
2-52 ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

2-53 SECTION 3. Chapter 242, Local Government Code, is amended
2-54 by designating Sections 242.001, 242.0015, and 242.002 as
2-55 Subchapter A and adding a heading for Subchapter A to read as
2-56 follows:

2-57 SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
2-58 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

2-59 SECTION 4. This Act takes effect immediately if it receives
2-60 a vote of two-thirds of all the members elected to each house, as
2-61 provided by Section 39, Article III, Texas Constitution. If this
2-62 Act does not receive the vote necessary for immediate effect, this
2-63 Act takes effect September 1, 2009.

2-64 * * * * *