

**House Bill 2833**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

SUBCHAPTER F. RESIDENTIAL BUILDING CODE STANDARDS APPLICABLE TO UNINCORPORATED AREAS OF COUNTIES

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

(1) residential construction of a single-family house or duplex on a vacant lot; and

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

Sec. 233.152. BUILDING CODE STANDARDS APPLICABLE.

(a) New residential construction of a single-family house or duplex in the unincorporated area of a county

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

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

(c) 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) This subchapter may not be construed to:

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

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

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

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

shall conform to the version of the International Residential Code published as of May 1, 2008, or the version of the International Residential Code that is applicable in the county seat of that county.

(b) Standards required under this subchapter apply only to new residential construction that begins after September 1, 2009.

(c) If a municipality has adopted a building code in the municipality's extraterritorial jurisdiction, the building code adopted by the municipality controls and building code standards under this subchapter have no effect in the municipality's extraterritorial jurisdiction.

(d) This subchapter may not be construed to:

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

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

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

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

(f) A county may not charge a fee to a person subject to standards under this subchapter to defray the costs of

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enforcing the standards

Sec. 233.154. BUILDING CODE REQUIREMENTS.  
(a) A building code adopted under Section 233.153 may contain only the same requirements as the statutory warranty and building and performance standards that apply to residential construction under Chapter 430, Property Code, and any rules governing those standards adopted by the Texas Residential Construction Commission under Title 16, Property Code.  
(b) A building code adopted under Section 233.153 shall require a person who builds new residential construction to:  
(1) have the new residential construction inspected by a third-party inspector approved by the Texas Residential Construction 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:  
(A) the location of the new residential construction on a form prescribed by the county;  
(B) the date by which the new residential construction will be commenced; and  
(C) 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:  
(A) the county employee or department or agency of the

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county designated by the commissioners court of the county; and

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

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**Sec. 233.153. INSPECTION AND NOTICE REQUIREMENTS.**

(a) A person who builds new residential construction described by Section 233.152 shall have the construction inspected to ensure building code compliance in accordance with this section as follows:

(1) for new residential construction on a vacant lot, a minimum of three inspections must be performed during the construction project to ensure code compliance, as applicable, at the following stages of construction:

(A) the foundation stage, before the placement of concrete;

(B) the framing and mechanical systems stage, before covering with drywall or other interior wall covering; and

(C) on completion of construction of the residence;

(2) for new residential construction of an addition to an existing residence as described by Section 233.151(2), the inspections under Subdivision (1) must be performed as necessary based on the scope of work of the construction project; and

(3) for new residential construction on a vacant lot and for construction of an addition to an existing residence, the builder:

(A) is responsible for contracting to perform the inspections required by this subsection with:

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(i) a licensed engineer;  
(ii) a registered architect;  
(iii) a professional inspector licensed by the Texas Real Estate Commission;  
(iv) a plumbing inspector employed by a municipality and licensed by the Texas State Board of Plumbing Examiners;  
(v) a building inspector employed by a political subdivision; or  
(vi) an individual certified as a residential combination inspector by the International Code Council; and  
(B) may use the same inspector for all the required inspections or a different inspector for each required inspection.  
(b) If required by a county, before commencing new residential construction, the builder shall provide notice to the county on a form prescribed by the county of:  
(1) the location of the new residential construction;  
(2) the approximate date by which the new residential construction will be commenced; and  
(3) the version of the International Residential Code that will be used to construct the new residential construction before commencing construction.  
(c) If required by the county, not later than the 10th day after the date of the final inspection under this section, the builder shall submit notice of the inspection stating whether or not the inspection showed compliance with the building code standards applicable to that phase of construction in a form required by the county to:  
(1) the county employee, department, or agency

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designated by the commissioners court of the county to receive the information; and  
(2) the person for whom the new residential construction is being built, if different from the builder.

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

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

(2) 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 Texas Residential Construction Commission for disciplinary action; and

(3) refer a third-party inspector approved by the Texas Residential Construction 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) Notwithstanding any other law, including Section 430.005, Property Code, the Texas Residential Construction Commission may 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, Property Code, or imposing an administrative penalty under Chapter 419, Property Code, with regard to new residential construction in a county that has adopted a building code

Sec. 233.154. ENFORCEMENT OF STANDARDS. If proper notice is not submitted in accordance with Sections 233.153(b) and (c), the county may take any or all of the following actions:

(1) refer the inspector to the appropriate regulatory authority for discipline;

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authorized under this subchapter.

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

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

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

Sec. 233.158. PENALTY; EXCEPTION. A person commits an offense if the person violates a restriction or prohibition imposed by a building code adopted under this subchapter.

An offense under this section is a Class C misdemeanor.

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(2) in a suit brought by the appropriate attorney representing the county in the district court, obtain appropriate injunctive relief to prevent a violation or threatened violation of a standard or notice required under this subchapter from continuing or occurring;

(3) refer the builder for prosecution under Section 233.156.

Sec. 233.155. EXISTING AUTHORITY UNAFFECTED. The authority granted by this subchapter does not affect the authority of a commissioners court to adopt an order under other law.

Sec. 233.156. PENALTY. (a) A person commits an offense if the person fails to provide proper notice in accordance with Sections 233.153(b) and (c).

(b) An offense under this section is a Class C misdemeanor.

Sec. 233.157. PRIOR APPROVAL FOR OWNER-BUILT RESIDENCES. (a) This section applies only to a county located within 50 miles of an international border.

(b) For new residential construction that is built by a person who owns the residence, acts as the person's own contractor, and intends to use the residence as the person's primary residence for at least one year after the

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completion or substantial completion of the new residential construction, the county may require prior approval before the beginning of the new residential construction through a form prescribed by the county.

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

Same as House version.