

Amend CSSB 1 (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE _____. REGULATION OF SUBDIVISIONS IN COUNTIES

SECTION _____.01. If the Texas Water Development Board determines that a county is not complying with the changes in law made by this article, the board may withhold funds authorized under Section 15.407, Water Code, or Subchapter P, Chapter 15, Water Code, or Subchapter K, Chapter 17, Water Code, on or after the effective date of this Act until the county demonstrates compliance.

SECTION _____.02. Section 232.0031, Local Government Code, is amended to read as follows:

Sec. 232.0031. STANDARD FOR ROADS IN SUBDIVISION. A county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of new streets or roads with a similar type and amount of traffic.

SECTION _____.03. Section 232.022(d), Local Government Code, is amended to read as follows:

(d) This subchapter does not apply if all ~~each~~ of the lots of the subdivision are more than ~~is~~ 10 ~~or more~~ acres.

SECTION _____.04. Section 232.023, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A subdivider of land must have a plat of the subdivision prepared if at least one of the lots of the subdivision is five acres or less. A commissioners court by order may require each subdivider of land to prepare a plat if at least one of the lots of a subdivision is more than five acres but not more than 10 acres.

(a-1) A subdivision of a tract under this section ~~subsection~~ includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

SECTION _____.05. Section 232.033, Local Government Code, is

amended by amending Subsections (a) and (h) and adding Subsections (a-1), (a-2), (a-3), (a-4), and (a-5) to read as follows:

(a) Brochures, publications, ~~and~~ advertising of any form, and earnest money contracts relating to ~~subdivided~~ land required to be platted under this subchapter:

(1) may not contain any misrepresentation; ~~and~~

(2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities; and

(3) if a plat for the land has not been finally approved and recorded, must include a notice that:

(A) subject to Subsection (a-1), a contract for the sale of any portion of the land may not be entered into until the land receives final plat approval under Section 232.024; and

(B) the land may not be possessed or occupied until:

(i) the land receives final plat approval under Section 232.024; and

(ii) all water and sewer service facilities for the lot are connected or installed in compliance with the model rules adopted under Section 16.343, Water Code.

(a-1) This subsection applies in addition to other applicable law and prevails to the extent of a conflict with that other law. This subsection applies only to a person who is a seller or subdivider and who is a licensed, registered, or otherwise credentialed residential mortgage loan originator under applicable state law, federal law, and the Nationwide Mortgage Licensing System and Registry. A person may, before a plat has been finally approved and recorded for the land:

(1) enter into an earnest money contract with a potential purchaser and accept payment under the contract in an amount of \$250 or less; and

(2) advertise in accordance with this section.

(a-2) An earnest money contract entered into under Subsection (a-1) is void if the plat for the land has not been finally approved and recorded before the 91st day after the date the

earnest money contract is signed by the potential purchaser, unless the potential purchaser agrees in writing to extend the period for plat approval and recording for an additional 90-day period. Only one extension may be granted under this subsection.

(a-3) If an earnest money contract is void under Subsection (a-2), the seller shall refund all earnest money paid to the potential purchaser not later than the 30th day after the date the earnest money contract becomes void under Subsection (a-2). If the seller fails to refund the earnest money to the potential purchaser in violation of this subsection, the potential purchaser, in a suit to recover the earnest money, may recover an amount equal to three times the amount of the earnest money required to be refunded, plus reasonable attorney's fees.

(a-4) Before entering into an earnest money contract with a potential purchaser and before a plat has been finally approved and recorded for the land as permitted under Subsection (a-1), a person must provide written notice to the attorney general and to the local government responsible for approving the plat. The notice must include:

(1) a statement of intent to enter into an earnest money contract under Subsection (a-1);

(2) a legal description of the land to be included in the subdivision;

(3) each county in which all or part of the subdivision is located; and

(4) the number of proposed individual lots to be included in the subdivision.

(a-5) The attorney general may adopt rules regarding the notice to be provided under Subsection (a-4).

(h) A person who is a seller of lots for which a plat is required under this subchapter [~~in a subdivision~~], or a subdivider or an agent of a seller or subdivider, commits an offense if the person knowingly authorizes or assists in the publication, advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any [~~subdivided~~] land offered for sale or lease. An offense under this section is a Class A misdemeanor.

SECTION ____ .06. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.0375 to read as follows:

Sec. 232.0375. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(b) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(c) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

(d) This section does not apply to an action filed by a private individual.

SECTION ____ .07. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.045 to read as follows:

Sec. 232.045. EARNEST MONEY CONTRACTS. (a) An earnest money contract entered into under Section 232.033(a-1) must contain the following statement:

"NOTICE: THIS IS AN EARNEST MONEY CONTRACT ONLY. THE MAXIMUM AMOUNT THAT THE SELLER MAY COLLECT UNDER THIS CONTRACT IS \$250. THE SELLER MAY NOT DEMAND ANY ADDITIONAL PAYMENT UNTIL A PLAT OF THE SUBDIVISION HAS BEEN APPROVED."

(b) An earnest money contract entered into under Section 232.033(a-1) must contain the notice required by Section 232.033.

SECTION ____ .08. Section 232.072, Local Government Code, is amended by amending Subsection (a) and adding Subsection (a-1) to

read as follows:

(a) The owner of a tract of land that divides the tract in any manner that creates lots of five acres or less intended for residential purposes must have a plat of the subdivision prepared. A commissioners court by order may require each subdivider of land to prepare a plat if at least one of the lots of a subdivision is more than five acres but not more than 10 acres.

(a-1) A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

SECTION _____.09. Subchapter C, Chapter 232, Local Government Code, is amended by adding Sections 232.0805 and 232.0806 to read as follows:

Sec. 232.0805. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) In this section, "subdivider" has the meaning assigned by Section 232.021.

(b) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(c) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(d) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

(e) This section does not apply to an action filed by a private individual.

Sec. 232.0806. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. A person who has purchased or is purchasing a lot in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void, require the subdivider to return the purchase price of the property, and recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees; or

(2) enjoin a violation or threatened violation of Section 232.072, require the subdivider to plat or amend an existing plat under Sections 232.011 and 232.081, and recover from the subdivider:

(A) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(B) court costs; and

(C) reasonable attorney's fees.

SECTION _____.10. Section 16.343(g), Water Code, is amended to read as follows:

(g) Before an application for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may be considered by the board, if the area for which the funds are proposed to be used is located:

(1) in a municipality, the municipality must adopt the model rules pursuant to this section;

(2) in the extraterritorial jurisdiction of a municipality, the applicant must demonstrate that the model rules have been adopted and are enforced in the extraterritorial jurisdiction by either the municipality or the county; or

(3) outside the extraterritorial jurisdiction of a municipality, the county must adopt the model rules pursuant to this section [~~a political subdivision must adopt the model rules pursuant to this section. If the applicant is a district, nonprofit water supply corporation, or colonia, the applicant must be located in a city or county that has adopted such rules. Applicants for funds under Section 15.407 or Subchapter P, Chapter 15, or Subchapter K, Chapter 17, may not receive funds under those provisions unless the applicable political subdivision adopts and enforces the model rules~~].

SECTION ____ .11. Subchapter J, Chapter 16, Water Code, is amended by adding Section 16.3541 to read as follows:

Sec. 16.3541. NOTICE AND OPPORTUNITY TO CURE REQUIRED BEFORE FILING ENFORCEMENT ACTION. (a) In this section, "subdivider" has the meaning assigned by Section 232.021, Local Government Code.

(b) Before a civil enforcement action may be filed against a subdivider under this subchapter, the subdivider must be notified in writing about the general nature of the alleged violation and given 90 days from the notification date to cure the violation. After the 90th day after the date of the notification, the enforcement action may proceed.

(c) This section does not apply to a civil enforcement action if the attorney general, district attorney, or county attorney asserts that:

(1) an alleged violation or threatened violation poses a threat to a consumer or to the health and safety of any person; or

(2) a delay in bringing an enforcement action may result in financial loss or increased costs to any person, including the county.

(d) This section does not apply if an enforcement action has previously been filed against the subdivider for the same or another alleged violation.

SECTION ____ .12. Section 232.021(9), Local Government Code, is repealed.

SECTION ____ .13. The changes in law made by this article to Sections 232.022, 232.023, 232.033, and 232.072, Local Government

Code, apply only to a subdivision plat application submitted for approval on or after the effective date of this Act. A subdivision plat application submitted for approval before the effective date of this Act is governed by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

SECTION _____.14. This article applies only to an enforcement action filed on or after the effective date of this Act. An enforcement action filed before the effective date of this Act is governed by the law as it existed when the action was filed, and the former law is continued in effect for that purpose.