

Amend SB 1816 on third reading as follows:

(1) In SECTION 2 of the bill, in the recital, strike "Subsections (a) and (d), Section 232.022, Local Government Code, are" and substitute "Subsection (d), Section 232.022, Local Government Code, is".

(2) In SECTION 2 of the bill, strike amended Section 232.022(a), Local Government Code.

(3) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. 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 _____. 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 _____. 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 _____. 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 _____. 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 _____. Section 233.152, Local Government Code, is amended to read as follows:

Sec. 233.152. APPLICABILITY. (a) Except as provided by Subsection (b), this [This] subchapter applies only to new residential construction in a county that has adopted a resolution or order requiring the application of the provisions of this subchapter and that:

(1) is located within 50 miles of an international border; or

(2) has a population of more than 100.

(b) This subchapter does not apply to new residential

construction if:

(1) the property on which the new residential construction is located is appraised for ad valorem tax purposes as land for agricultural use or open-space land under Subchapter C or D, Chapter 23, Tax Code;

(2) the new residential construction will not be located within 1,000 feet of a platted subdivision;

(3) the new residential construction is intended to be used as the primary residence of an individual who is the builder of, or acts as the general contractor for, the construction; and

(4) the new residential construction is:

(A) the first residential construction, as described by Section 233.151(a)(1), to be built on the property; or

(B) an addition to an existing single-family house or duplex, as described by Section 233.151(a)(2).

SECTION _____. Subchapter F, Chapter 233, Local Government Code, is amended by adding Section 233.1546 to read as follows:

Sec. 233.1546. CERTIFICATION OF COMPLIANCE; CONNECTION OF UTILITIES. (a) A county may require the issuance of a certificate of compliance as a precondition to obtaining utility services as provided by this section.

(b) The county shall, not later than the fifth business day after the date a request is received under this subsection, issue the requesting party a written certificate of compliance if:

(1) the county receives a written request from a person who builds new residential construction subject to this section, the person for whom the new residential construction is built, or an entity that provides utility service; and

(2) the requesting party demonstrates that the new residential construction has complied with all requirements applicable under this subchapter.

(c) An electric, gas, water, or sewer service utility may not permanently serve or connect new residential construction subject to this section with electricity, gas, water, sewer, or other utility service unless the utility receives a certificate issued by the county that states that compliance with all requirements applicable under this subchapter was demonstrated as

provided by Subsection (b).

(d) Subsection (c) does not prevent the temporary use or connection of utilities necessary to complete new residential construction, including temporary use or connection of utilities to pass an inspection under this subchapter.

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

SECTION _____. This Act 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.

SECTION _____. The changes in law made by this Act to Chapter 233, Local Government Code, apply only to new residential

construction that commences on or after the effective date of this Act, except that if the county requires notice under Section 233.154(b), Local Government Code, this Act applies only to new residential construction for which notice was given on or after the effective date of this Act.

(4) Renumber the SECTIONS of the bill accordingly.