

By: Turner

H.B. No. 364

A BILL TO BE ENTITLED

AN ACT

1
2 relating to condominiums in certain municipalities, including the
3 exercise of eminent domain authority by those municipalities with
4 respect to certain condominiums.

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

6 SECTION 1. Section 2206.001(b), Government Code, is amended
7 to read as follows:

8 (b) A governmental or private entity may not take private
9 property through the use of eminent domain if the taking:

10 (1) confers a private benefit on a particular private
11 party through the use of the property;

12 (2) is for a public use that is merely a pretext to
13 confer a private benefit on a particular private party; or

14 (3) is for economic development purposes, unless the
15 economic development is a secondary purpose resulting from:

16 (A) municipal community development or municipal
17 urban renewal activities to eliminate an existing affirmative harm
18 on society from slum or blighted areas under:

19 (i) [~~(A)~~] Chapter 373 or 374, Local
20 Government Code, other than an activity described by Section
21 373.002(b)(5), Local Government Code; or

22 (ii) [~~(B)~~] Section 311.005(a)(1)(I), Tax
23 Code; or

24 (B) the elimination of urban blight under

1 Subchapter I, Chapter 214, Local Government Code.

2 SECTION 2. The heading to Section 82.118, Property Code, is
3 amended to read as follows:

4 Sec. 82.118. SERVICE OF PROCESS ON UNIT OWNERS IN CERTAIN
5 MUNICIPALITIES; CHANGE OF ADDRESS REQUIRED.

6 SECTION 3. Section 82.118, Property Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) Not later than the 90th day after the date a unit owner
9 changes the unit owner's mailing address, the owner must provide
10 written notice of the owner's new address to the appraisal district
11 in which the condominium is located.

12 SECTION 4. Section 82.153(a), Property Code, is amended to
13 read as follows:

14 (a) A condominium information statement must contain or
15 accurately disclose:

16 (1) the name and principal address of the declarant
17 and of the condominium;

18 (2) a general description of the condominium that
19 includes the types of units and the maximum number of units;

20 (3) the minimum and maximum number of additional
21 units, if any, that may be included in the condominium;

22 (4) a brief narrative description of any development
23 rights reserved by a declarant and of any conditions relating to or
24 limitations upon the exercise of development rights;

25 (5) copies of the declaration, articles of
26 incorporation of the association, the bylaws, any rules of the
27 association, and amendments to any of them, and copies of leases and

1 contracts, other than loan documents, that are required by the
2 declarant to be signed by purchasers at closing;

3 (6) a projected or pro forma budget for the
4 association that complies with Subsection (b) for the first fiscal
5 year of the association following the date of the first conveyance
6 to a purchaser, identification of the person who prepared the
7 budget, and a statement of the budget's assumptions concerning
8 occupancy and inflation factors;

9 (7) a general description of each lien, lease, or
10 encumbrance on or affecting the title to the condominium after
11 conveyance by the declarant;

12 (8) a copy of each written warranty provided by the
13 declarant;

14 (9) a description of any unsatisfied judgments against
15 the association and any pending suits to which the association is a
16 party or which are material to the land title and construction of
17 the condominium of which a declarant has actual knowledge;

18 (10) a general description of the insurance coverage
19 provided for the benefit of unit owners;

20 (11) current or expected fees or charges to be paid by
21 unit owners for the use of the common elements and other facilities
22 related to the condominium; and

23 (12) for a condominium located wholly or partly in a
24 municipality with a population of more than 1.9 million a statement
25 that a unit owner:

26 (A) as an alternative to personal service, may be
27 served with process by the municipality or the municipality's agent

1 for a judicial or administrative proceeding initiated by the
2 municipality and directly related to the unit owner's property
3 interest in the condominium by serving the unit owner at the unit
4 owner's last known address, according to the records of the
5 appraisal district in which the condominium is located, by any
6 means permitted by Rule 21a, Texas Rules of Civil Procedure;

7 (B) shall [~~promptly~~] notify the appraisal
8 district in writing of a change in the unit owner's mailing address
9 not later than the 90th day after the date the unit owner changes
10 the address; and

11 (C) may not offer proof in the judicial or
12 administrative proceeding, or in a subsequent related proceeding,
13 that otherwise proper service by mail of the notice was not received
14 not later than three days after the date the notice was deposited in
15 a post office or official depository under the care and custody of
16 the United States Postal Service.

17 SECTION 5. Chapter 214, Local Government Code, is amended
18 by adding Subchapter I to read as follows:

19 SUBCHAPTER I. EMINENT DOMAIN AUTHORITY OF CERTAIN MUNICIPALITIES
20 TO TAKE ABANDONED CONDOMINIUMS

21 Sec. 214.301. APPLICABILITY. This subchapter applies only
22 to a municipality with a population of more than 1.9 million.

23 Sec. 214.302. DEFINITION. In this subchapter,
24 "condominium" means a condominium as defined by Section 81.002 or
25 82.003, Property Code.

26 Sec. 214.303. EMINENT DOMAIN AUTHORITY. A municipality may
27 take a condominium through the use of eminent domain if:

1 (1) all lawful occupation of or construction activity
2 for the condominium has ceased, or reasonably appears to have
3 ceased, for more than 365 consecutive days; and

4 (2) the taking is for the elimination of urban blight
5 on the particular parcel of property where the condominium is
6 located.

7 SECTION 6. The change in law made by this Act applies only
8 to a condemnation proceeding in which the condemnation petition is
9 filed on or after the effective date of this Act and to any property
10 condemned through the proceeding. A condemnation proceeding in
11 which the condemnation petition is filed before the effective date
12 of this Act and any property condemned through the proceeding are
13 governed by the law in effect immediately before the effective date
14 of this Act, and that law is continued in effect for that purpose.

15 SECTION 7. This Act takes effect September 1, 2011.