

By: Oliveira

H.B. No. 3190

A BILL TO BE ENTITLED

AN ACT

relating to authorizing counties and municipalities to regulate land development; providing a penalty.

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

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

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec. 242.051. REGULATORY AUTHORITY. (a) The commissioners court of a county may, by order, regulate residential land development in the unincorporated area of the county. The governing body of a municipality may, by ordinance, regulate residential land development in the municipality's extraterritorial jurisdiction. By this authority, the commissioners court or governing body may prevent the proliferation of colonias by:

(1) adopting regulations relating to:

(A) maximum densities, including the size of lots;

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

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

1           (D) the preparation of a plan for utility  
2 development, environmental effect and adaptation, utility  
3 extension, and capacity planning and providing financial analysis  
4 of said plan; and

5           (2) adopting building codes to promote safe and  
6 uniform building, plumbing, and electrical standards.

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

12           (c) The authority granted under this section does not  
13 authorize the commissioners court or governing body to adopt an  
14 order regulating commercial property that is uninhabitable.

15           (d) The authority granted under this section does not  
16 authorize the commissioners court or governing body to adopt an  
17 order that limits or otherwise impairs the rights of individuals or  
18 entities in the exploration, development, or production of oil,  
19 gas, or other minerals.

20           Sec. 242.052. BUILDING PERMITS. (a) The county or  
21 municipality, as appropriate, shall issue a building permit if the  
22 person submitting the application for the permit:

23           (1) files information relating to the location of the  
24 residence;

25           (2) files the building plans for the residence; and

26           (3) complies with the applicable regulations relating  
27 to the issuance of the permit.

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

3       (c) The county or municipality shall deposit fees collected  
4 under this section in an account in its general fund and dedicate  
5 the fees to the building permit program. The funds in the account  
6 may be used only for the purpose of administering the building  
7 permit program.

8       Sec. 242.053. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY  
9 ORDER. If an order adopted by the county under this subchapter  
10 conflicts with an ordinance of a municipality, the municipal  
11 ordinance prevails within the municipality's jurisdiction to the  
12 extent of the conflict.

13       Sec. 242.054. EXISTING AUTHORITY UNAFFECTED. The authority  
14 granted by this subchapter does not affect the authority of the  
15 commissioners court or governing body to adopt an order or  
16 ordinance under other law.

17       Sec. 242.055. INJUNCTION. The county or municipality, in a  
18 suit brought by the appropriate attorney representing the county or  
19 municipality in the district court, is entitled to appropriate  
20 injunctive relief to prevent the violation or threatened violation  
21 of the entity's order or ordinance adopted under this subchapter  
22 from continuing or occurring.

23       Sec. 242.056. PENALTY; EXCEPTION. (a) A person commits an  
24 offense if the person violates a restriction or prohibition imposed  
25 by an order or ordinance adopted under this subchapter. An offense  
26 under this section is a Class C misdemeanor.

27       (b) It is an exception to the application of this section

1 that:

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

5 (2) the dwelling was constructed before the effective  
6 date of this subchapter;

7 (3) the violation related to a building standard or  
8 building code for that dwelling; and

9 (4) the county or municipality, as appropriate:

10 (A) did not make available to the person a grant  
11 or loan in an amount sufficient to cure the violation; or

12 (B) made available to the person a loan that was  
13 sufficient to cure the violation but that caused the housing  
14 expenses of the person to exceed 30 percent of the person's net  
15 income.

16 SECTION 2. The heading to Chapter 242, Local Government  
17 Code, is amended to read as follows:

18 CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE  
19 SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~  
20 ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

21 SECTION 3. Chapter 242, Local Government Code, is amended  
22 by designating Sections 242.001, 242.0015, and 242.002 as  
23 Subchapter A and adding a heading for Subchapter A to read as  
24 follows:

25 SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE  
26 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

27 SECTION 4. This Act takes effect immediately if it receives

H.B. No. 3190

1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2011.