

By: Oliveira

H.B. No. 3394

A BILL TO BE ENTITLED

1 AN ACT

2 relating to county building code standards for new residential
3 construction; providing a penalty.

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

5 SECTION 1. Section 233.151, Local Government Code, is
6 amended to read as follows:

7 Sec. 233.151. DEFINITIONS. (a) In this subchapter:

8 (1) "New [~~,"new~~] residential construction" includes:

9 (A) [~~(1) residential~~] construction of a
10 residential dwelling [~~single-family house or duplex~~] on a vacant
11 lot; and

12 (B) [~~(2)~~] construction of an addition to an
13 existing residential dwelling or unit of a residential dwelling
14 [~~single-family house or duplex~~], if the addition will increase the
15 square footage or value of the existing residential dwelling or
16 unit, as applicable, [building] by more than 50 percent.

17 (2) "Residential dwelling" means a building
18 containing one to three individual units to be occupied for
19 residential purposes by one or more individuals and includes a
20 single-family dwelling, duplex, or triplex.

21 (b) The term "new residential construction" does not
22 include a structure that is constructed in accordance with Chapter
23 1201, Occupations Code, or a modular home constructed in accordance
24 with Chapter 1202, Occupations Code.

1 SECTION 2. Section 233.153, Local Government Code, is
2 amended to read as follows:

3 Sec. 233.153. BUILDING CODE STANDARDS APPLICABLE. (a) The
4 commissioners court of a county by order may require new [New]
5 residential construction [~~of a single-family house or duplex~~] in
6 the unincorporated area of the [~~a~~] county to [~~which this subchapter~~
7 ~~applies shall~~] conform to the version of the International
8 Residential Code published as of May 1, 2008, or the version of the
9 International Residential Code that is applicable in the county
10 seat of that county.

11 (b) Standards required under this subchapter apply only to
12 new residential construction that begins after September 1, 2011
13 [~~2009~~].

14 (c) If a municipality located within a county to which this
15 subchapter applies has adopted a building code in the
16 municipality's extraterritorial jurisdiction, the building code
17 adopted by the municipality controls and building code standards
18 under this subchapter have no effect in the municipality's
19 extraterritorial jurisdiction, provided that the municipality
20 actively and diligently enforces the municipality's adopted
21 building code within its extraterritorial jurisdiction.

22 (d) This subchapter may not be construed to:

23 (1) [~~require prior approval by the county before the~~
24 ~~beginning of new residential construction,~~

25 [~~2~~] authorize the commissioners court of a county to
26 adopt or enforce zoning regulations; or

27 (2) [~~3~~] affect the application of the provisions of

1 Subchapter B, Chapter 232, to land development.

2 (e) In the event of a conflict between this subchapter and
3 Subchapter B, Chapter 232, the more stringent requirements
4 ~~[provisions of Subchapter B, Chapter 232,]~~ control.

5 ~~[(f) A county may not charge a fee to a person subject to~~
6 ~~standards under this subchapter to defray the costs of enforcing~~
7 ~~the standards.]~~

8 SECTION 3. Subchapter F, Chapter 233, Local Government
9 Code, is amended by adding Section 233.1531 to read as follows:

10 Sec. 233.1531. BUILDING PERMITS. (a) The commissioners
11 court of a county to which this subchapter applies may, by order,
12 establish a building permit requirement to promote safe and uniform
13 building, plumbing, and electrical standards and to enforce the
14 building codes the county has adopted. If a commissioners court
15 adopts an order to establish a building permit requirement, the
16 county shall establish a mechanism by which the county issues a
17 building permit if the person submitting the application for the
18 permit:

19 (1) files information relating to the location of the
20 residence;

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

22 (3) complies with the applicable regulations relating
23 to the issuance of the permit.

24 (b) A county may adopt rules it considers necessary to
25 administer its duties under this section and charge a reasonable
26 fee, not to exceed \$500 per application, to defray the costs of
27 administering its duties under this section.

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

5 SECTION 4. Section 233.154(a), Local Government Code, is
6 amended to read as follows:

7 (a) A person who builds new residential construction
8 [~~described by Section 233.153~~] shall have the construction
9 inspected to ensure building code compliance in accordance with
10 this section as follows:

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

15 (A) the foundation stage, including [~~before~~] the
16 placement of concrete;

17 (B) the framing, electrical, plumbing, and
18 mechanical systems stage, before covering with drywall or other
19 interior wall covering; and

20 (C) on completion of the new residential
21 construction [~~of the residence~~];

22 (2) for new residential construction of an addition to
23 an existing residential dwelling [~~residence~~] as described by
24 Section 233.151(a)(1)(B) [~~233.151(a)(2)~~], the inspections under
25 Subdivision (1) must be performed as necessary based on the scope of
26 work of the construction project; and

27 (3) for new residential construction on a vacant lot

1 and for construction of an addition to an existing residential
2 dwelling [~~residence~~], the builder:

3 (A) is responsible for contracting to perform the
4 inspections required by this subsection with an inspector certified
5 by the International Code Council in the discipline [~~+~~

6 [~~(i) a licensed engineer,~~

7 [~~(ii) a registered architect,~~

8 [~~(iii) a professional inspector licensed by~~
9 ~~the Texas Real Estate Commission,~~

10 [~~(iv) a plumbing inspector employed by a~~
11 ~~municipality and licensed by the Texas State Board of Plumbing~~
12 ~~Examiners,~~

13 [~~(v) a building inspector employed by a~~
14 ~~political subdivision; or~~

15 [~~(vi) an individual certified as a~~
16 ~~residential combination inspector by the International Code~~
17 ~~Council]~~; and

18 (B) may use the same inspector for all the
19 required inspections or a different inspector for each required
20 inspection.

21 SECTION 5. Subchapter F, Chapter 233, Local Government
22 Code, is amended by adding Section 233.1541 to read as follows:

23 Sec. 233.1541. OCCUPANCY OF RESIDENCE; CONNECTION OF
24 UTILITIES. (a) A utility may not serve or connect a residential
25 dwelling or unit of a residential dwelling with water, sewer,
26 electricity, or gas service unless the entity receives a
27 determination from the commissioners court that the residential

1 dwelling or unit:

2 (1) has been inspected in accordance with this
3 subchapter;

4 (2) has passed all inspections required by this
5 subchapter; and

6 (3) complies with applicable on-site sewage
7 regulations.

8 (b) The commissioners court shall:

9 (1) make the determination under Subsection (a) not
10 later than the 20th regular business day after the date it receives
11 a request for a determination; and

12 (2) issue the certificate of determination of
13 inspection, if appropriate, not later than the 10th day after the
14 date the determination is made.

15 SECTION 6. Section 233.155, Local Government Code, is
16 amended to read as follows:

17 Sec. 233.155. ENFORCEMENT OF STANDARDS. (a) If proper
18 notice is not submitted in accordance with Sections 233.154(b) and
19 (c), the county may take any or all of the following actions:

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

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

27 (3) refer the builder for prosecution under Section

1 233.157.

2 (b) The attorney general, or the district attorney,
3 criminal district attorney, county attorney with felony
4 responsibility, or county attorney of the county may take any
5 action necessary in a court of competent jurisdiction on behalf of
6 the state or on behalf of residents to:

7 (1) enjoin the violation or threatened violation of a
8 requirement of this subchapter or an order, rule, or standard
9 adopted by the commissioners court under this subchapter;

10 (2) recover civil or criminal penalties, attorney's
11 fees, litigation costs, and investigative costs;

12 (3) require correction of the noncomplying
13 conditions; and

14 (4) recover actual expenses incurred by the owner of
15 the dwelling as a result of the failure to build in accordance with
16 the adopted standards or take corrective actions.

17 (c) The attorney general, at the request of the district or
18 county attorney with jurisdiction, may conduct a criminal
19 prosecution under Section 233.157

20 (d) During the pendency of any enforcement action brought,
21 any resident of an affected residential dwelling, or the attorney
22 general, district attorney, or county attorney on behalf of the
23 resident, may file a motion against the provider of utilities to
24 halt termination of pre-existing utility services. The services
25 may not be terminated if the court makes an affirmative finding
26 after hearing the motion that termination poses a threat to public
27 health, safety, or welfare of the resident.

1 SECTION 7. Section 233.157, Local Government Code, is
2 amended to read as follows:

3 Sec. 233.157. OFFENSES; PENALTY; EXCEPTION. (a) A person
4 commits an offense if the person fails to provide proper notice in
5 accordance with Section 233.154 [~~Sections 233.154(b) and (c)~~].

6 (b) A person commits an offense if the person violates a
7 rule or order adopted under this subchapter.

8 (c) A person commits an offense if the person constructs new
9 residential construction that does not comply with a standard
10 adopted under this subchapter.

11 (d) Except as provided by Subsection (e), an [~~An~~] offense
12 under this section is a Class C misdemeanor.

13 (e) If it is shown at trial of an offense that the defendant
14 has previously been convicted of an offense three or more times
15 under this subchapter, the offense is a Class B misdemeanor.

16 (f) Venue for prosecution for a violation under this section
17 is in the county in which any element of the violation is alleged to
18 have occurred or in Travis County.

19 (g) It is an exception to the application of this section
20 that the dwelling or unit was constructed before the effective date
21 of this subchapter; or

22 (1) the person is an owner-occupant of a residential
23 dwelling or unit of a residential dwelling that is classified by the
24 Texas Department of Housing and Community Affairs as a low-income
25 household;

26 (2) the violation related to a building standard or
27 building code for that dwelling or unit; and

1 (3) the county:

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

4 (B) made available to the person a loan that was
5 sufficient to cure the violation but that caused the housing
6 expenses of the person to exceed 30 percent of the person's net
7 income.

8 ~~[(c) An individual who fails to provide proper notice in~~
9 ~~accordance with Sections 233.154(b) and (c) is not subject to a~~
10 ~~penalty under this subsection if:~~

11 ~~[(1) the new residential construction is built by the~~
12 ~~individual or the individual acts as the individual's own~~
13 ~~contractor; and~~

14 ~~[(2) the individual intends to use the residence as~~
15 ~~the individual's primary residence.]~~

16 SECTION 8. Subchapter F, Chapter 233, Local Government
17 Code, is amended by adding Section 233.158 to read as follows:

18 Sec. 233.158. PROHIBITION ON USE OF STATE MONEY TO
19 REMEDiate OR SUBSIDIZE SUBSTANDARD HOUSING. A county may not apply
20 for or receive state money to remediate or mitigate deficiencies in
21 substandard housing that are associated with new residential
22 construction commenced on or after September 1, 2011, unless the
23 county has adopted a resolution under Section 233.153(a) and is
24 enforcing the provisions of this subchapter.

25 SECTION 9. (a) Except as provided by Subsection (b), this
26 Act takes effect September 1, 2011.

27 (b) A county is not required to adopt a resolution to be

H.B. No. 3394

1 eligible for state money as required by Section 233.158, Local
2 Government Code, as added by this Act, until September 1, 2012.