

By: Lucio

S.B. No. 1364

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to authorizing certain border counties and municipalities  
3 in those counties to regulate land development; providing a  
4 penalty.

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

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

8 SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN BORDER COUNTIES  
9 AND MUNICIPALITIES LOCATED IN THOSE COUNTIES

10 Sec. 242.051. APPLICABILITY. This subchapter applies only  
11 to:

12 (1) a county with a population of more than 400,000  
13 that is:

14 (A) located along an international border; and

15 (B) adjacent to another county with a population  
16 of more than 400,000; or

17 (2) a municipality located in that county if:

18 (A) the county does not exercise in the  
19 municipality's extraterritorial jurisdiction the authority  
20 described by this subchapter; and

21 (B) the county by resolution authorizes the  
22 municipality to exercise in the municipality's extraterritorial  
23 jurisdiction the authority described by this subchapter.

24 Sec. 242.052. REGULATORY AUTHORITY. (a) The

1 commissioners court of a county to which this subchapter applies  
2 may, by order, regulate residential land development in the  
3 unincorporated area of the county. The governing body of a  
4 municipality to which this subchapter applies may, by ordinance,  
5 regulate residential land development in the municipality's  
6 extraterritorial jurisdiction. By this authority, the  
7 commissioners court or governing body may prevent the proliferation  
8 of colonias by:

9 (1) adopting regulations relating to:

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

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

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

17 (D) the preparation of a plan for utility  
18 development, environmental effect and adaptation, utility  
19 extension, and capacity planning and providing financial analysis  
20 of said plan; and

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

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

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

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

9       Sec. 242.053. BUILDING PERMITS. (a) The county or  
10 municipality, as appropriate, shall issue a building permit if the  
11 person submitting the application for the permit:

12           (1) files information relating to the location of the  
13 residence;

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

15           (3) complies with the applicable regulations relating  
16 to the issuance of the permit.

17       (b) The county or municipality may charge a reasonable  
18 building permit fee.

19       (c) The county or municipality shall deposit fees collected  
20 under this section in an account in its general fund and dedicate  
21 the fees to the building permit program. The funds in the account  
22 may be used only for the purpose of administering the building  
23 permit program.

24       Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY  
25 ORDER. If an order adopted by the county under this subchapter  
26 conflicts with an ordinance of a municipality, the municipal  
27 ordinance prevails within the municipality's jurisdiction to the

1 extent of the conflict.

2 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority  
3 granted by this subchapter does not affect the authority of the  
4 commissioners court or governing body to adopt an order or  
5 ordinance under other law.

6 Sec. 242.056. INJUNCTION. The county or municipality, in a  
7 suit brought by the appropriate attorney representing the county or  
8 municipality in the district court, is entitled to appropriate  
9 injunctive relief to prevent the violation or threatened violation  
10 of the entity's order or ordinance adopted under this subchapter  
11 from continuing or occurring.

12 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an  
13 offense if the person violates a restriction or prohibition imposed  
14 by an order or ordinance adopted under this subchapter. An offense  
15 under this section is a Class C misdemeanor.

16 (b) It is an exception to the application of this section  
17 that:

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

21 (2) the dwelling was constructed before the effective  
22 date of the Act enacting this subchapter;

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

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

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

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

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

7           CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE  
8                   SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~  
9                   ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

10           SECTION 3. Chapter 242, Local Government Code, is amended  
11 by designating Sections 242.001, 242.0015, and 242.002 as  
12 Subchapter A and adding a heading for Subchapter A to read as  
13 follows:

14           SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE  
15                   MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

16           SECTION 4. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2011.