

By: Lucio

S.B. No. 1364

A BILL TO BE ENTITLED

AN ACT

relating to authorizing certain border counties and municipalities in those counties 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 BORDER COUNTIES AND MUNICIPALITIES LOCATED IN THOSE COUNTIES

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

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

(A) located along an international border; and  
(B) adjacent to another county with a population of more than 400,000; or

(2) a municipality located in that county if:  
(A) the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter; and

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

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

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

8 (1) adopting regulations relating to:

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

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

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

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

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

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

27 (c) The authority granted under this section does not

1 authorize the commissioners court or governing body to adopt an  
2 order regulating commercial property that is uninhabitable.

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

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

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

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

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

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

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

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

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

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

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

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

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

20               (2) the dwelling was constructed before the effective  
21 date of this subchapter;

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

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

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

27                       (B) made available to the person a loan that was

1 sufficient to cure the violation but that caused the housing  
2 expenses of the person to exceed 30 percent of the person's net  
3 income.

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

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

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

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

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