

1-1 By: Lucio S.B. No. 1364
1-2 (In the Senate - Filed March 9, 2011; March 22, 2011, read
1-3 first time and referred to Committee on International Relations and
1-4 Trade; April 5, 2011, reported favorably by the following vote:
1-5 Yeas 4, Nays 0; April 5, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to authorizing certain border counties and municipalities
1-9 in those counties to regulate land development; providing a
1-10 penalty.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 242, Local Government Code, is amended
1-13 by adding Subchapter B to read as follows:

1-14 SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN BORDER COUNTIES
1-15 AND MUNICIPALITIES LOCATED IN THOSE COUNTIES

1-16 Sec. 242.051. APPLICABILITY. This subchapter applies only
1-17 to:

1-18 (1) a county with a population of more than 400,000
1-19 that is:

1-20 (A) located along an international border; and
1-21 (B) adjacent to another county with a population
1-22 of more than 400,000; or

1-23 (2) a municipality located in that county if:

1-24 (A) the county does not exercise in the
1-25 municipality's extraterritorial jurisdiction the authority
1-26 described by this subchapter; and

1-27 (B) the county by resolution authorizes the
1-28 municipality to exercise in the municipality's extraterritorial
1-29 jurisdiction the authority described by this subchapter.

1-30 Sec. 242.052. REGULATORY AUTHORITY. (a) The
1-31 commissioners court of a county to which this subchapter applies
1-32 may, by order, regulate residential land development in the
1-33 unincorporated area of the county. The governing body of a
1-34 municipality to which this subchapter applies may, by ordinance,
1-35 regulate residential land development in the municipality's
1-36 extraterritorial jurisdiction. By this authority, the
1-37 commissioners court or governing body may prevent the proliferation
1-38 of colonias by:

1-39 (1) adopting regulations relating to:

1-40 (A) maximum densities, including the size of
1-41 lots;

1-42 (B) the height, number of stories, size, or
1-43 number of buildings or other structures that may be located on a lot
1-44 or tract;

1-45 (C) the location of buildings and other
1-46 structures on a lot or tract; and

1-47 (D) the preparation of a plan for utility
1-48 development, environmental effect and adaptation, utility
1-49 extension, and capacity planning and providing financial analysis
1-50 of said plan; and

1-51 (2) adopting building codes to promote safe and
1-52 uniform building, plumbing, and electrical standards.

1-53 (b) If a tract of land is appraised as agricultural or
1-54 open-space land by the appraisal district, the commissioners court
1-55 or governing body may not regulate land development on that tract
1-56 under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or
1-57 (a)(2).

1-58 (c) The authority granted under this section does not
1-59 authorize the commissioners court or governing body to adopt an
1-60 order regulating commercial property that is uninhabitable.

1-61 (d) The authority granted under this section does not
1-62 authorize the commissioners court or governing body to adopt an
1-63 order that limits or otherwise impairs the rights of individuals or
1-64 entities in the exploration, development, or production of oil,

2-1 gas, or other minerals.
2-2 Sec. 242.053. BUILDING PERMITS. (a) The county or
2-3 municipality, as appropriate, shall issue a building permit if the
2-4 person submitting the application for the permit:

- 2-5 (1) files information relating to the location of the
- 2-6 residence;
- 2-7 (2) files the building plans for the residence; and
- 2-8 (3) complies with the applicable regulations relating
- 2-9 to the issuance of the permit.

2-10 (b) The county or municipality may charge a reasonable
2-11 building permit fee.

2-12 (c) The county or municipality shall deposit fees collected
2-13 under this section in an account in its general fund and dedicate
2-14 the fees to the building permit program. The funds in the account
2-15 may be used only for the purpose of administering the building
2-16 permit program.

2-17 Sec. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY
2-18 ORDER. If an order adopted by the county under this subchapter
2-19 conflicts with an ordinance of a municipality, the municipal
2-20 ordinance prevails within the municipality's jurisdiction to the
2-21 extent of the conflict.

2-22 Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. The authority
2-23 granted by this subchapter does not affect the authority of the
2-24 commissioners court or governing body to adopt an order or
2-25 ordinance under other law.

2-26 Sec. 242.056. INJUNCTION. The county or municipality, in a
2-27 suit brought by the appropriate attorney representing the county or
2-28 municipality in the district court, is entitled to appropriate
2-29 injunctive relief to prevent the violation or threatened violation
2-30 of the entity's order or ordinance adopted under this subchapter
2-31 from continuing or occurring.

2-32 Sec. 242.057. PENALTY; EXCEPTION. (a) A person commits an
2-33 offense if the person violates a restriction or prohibition imposed
2-34 by an order or ordinance adopted under this subchapter. An offense
2-35 under this section is a Class C misdemeanor.

2-36 (b) It is an exception to the application of this section
2-37 that:

2-38 (1) the person is an owner-occupant of a residential
2-39 dwelling that is classified by the Texas Department of Housing and
2-40 Community Affairs as a low-income household;

2-41 (2) the dwelling was constructed before the effective
2-42 date of the Act enacting this subchapter;

2-43 (3) the violation related to a building standard or
2-44 building code for that dwelling; and

2-45 (4) the county or municipality, as appropriate:

2-46 (A) did not make available to the person a grant
2-47 or loan in an amount sufficient to cure the violation; or

2-48 (B) made available to the person a loan that was
2-49 sufficient to cure the violation but that caused the housing
2-50 expenses of the person to exceed 30 percent of the person's net
2-51 income.

2-52 SECTION 2. The heading to Chapter 242, Local Government
2-53 Code, is amended to read as follows:

2-54 CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
2-55 SUBDIVISIONS AND PROPERTY DEVELOPMENT [~~IN AND OUTSIDE~~
2-56 ~~MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION~~]

2-57 SECTION 3. Chapter 242, Local Government Code, is amended
2-58 by designating Sections 242.001, 242.0015, and 242.002 as
2-59 Subchapter A and adding a heading for Subchapter A to read as
2-60 follows:

2-61 SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND OUTSIDE
2-62 MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

2-63 SECTION 4. This Act takes effect immediately if it receives
2-64 a vote of two-thirds of all the members elected to each house, as
2-65 provided by Section 39, Article III, Texas Constitution. If this
2-66 Act does not receive the vote necessary for immediate effect, this
2-67 Act takes effect September 1, 2011.

2-68 * * * * *