

SENATE AMENDMENTS

2nd Printing

By: Turner

H.B. No. 364

A BILL TO BE ENTITLED

AN ACT

1
2 relating to condominiums in certain municipalities, including the
3 exercise of eminent domain authority by those municipalities with
4 respect to certain condominiums.

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

6 SECTION 1. Section 2206.001, Government Code, is amended by
7 adding Subsection (b-1) to read as follows:

8 (b-1) Subsection (b)(3) does not prohibit the taking of
9 private property through the use of eminent domain for economic
10 development purposes if the economic development is a secondary
11 purpose resulting from the elimination of urban blight under
12 Subchapter I, Chapter 214, Local Government Code. This subsection
13 expires December 31, 2016.

14 SECTION 2. The heading to Section 82.118, Property Code, is
15 amended to read as follows:

16 Sec. 82.118. SERVICE OF PROCESS ON UNIT OWNERS IN CERTAIN
17 MUNICIPALITIES; CHANGE OF ADDRESS REQUIRED.

18 SECTION 3. Section 82.118, Property Code, is amended by
19 adding Subsection (c) to read as follows:

20 (c) Not later than the 90th day after the date a unit owner
21 changes the unit owner's mailing address, the owner must provide
22 written notice of the owner's new address to the appraisal district
23 in which the condominium is located.

24 SECTION 4. Section 82.153(a), Property Code, is amended to

1 read as follows:

2 (a) A condominium information statement must contain or
3 accurately disclose:

4 (1) the name and principal address of the declarant
5 and of the condominium;

6 (2) a general description of the condominium that
7 includes the types of units and the maximum number of units;

8 (3) the minimum and maximum number of additional
9 units, if any, that may be included in the condominium;

10 (4) a brief narrative description of any development
11 rights reserved by a declarant and of any conditions relating to or
12 limitations upon the exercise of development rights;

13 (5) copies of the declaration, articles of
14 incorporation of the association, the bylaws, any rules of the
15 association, and amendments to any of them, and copies of leases and
16 contracts, other than loan documents, that are required by the
17 declarant to be signed by purchasers at closing;

18 (6) a projected or pro forma budget for the
19 association that complies with Subsection (b) for the first fiscal
20 year of the association following the date of the first conveyance
21 to a purchaser, identification of the person who prepared the
22 budget, and a statement of the budget's assumptions concerning
23 occupancy and inflation factors;

24 (7) a general description of each lien, lease, or
25 encumbrance on or affecting the title to the condominium after
26 conveyance by the declarant;

27 (8) a copy of each written warranty provided by the

1 declarant;

2 (9) a description of any unsatisfied judgments against
3 the association and any pending suits to which the association is a
4 party or which are material to the land title and construction of
5 the condominium of which a declarant has actual knowledge;

6 (10) a general description of the insurance coverage
7 provided for the benefit of unit owners;

8 (11) current or expected fees or charges to be paid by
9 unit owners for the use of the common elements and other facilities
10 related to the condominium; and

11 (12) for a condominium located wholly or partly in a
12 municipality with a population of more than 1.9 million a statement
13 that a unit owner:

14 (A) as an alternative to personal service, may be
15 served with process by the municipality or the municipality's agent
16 for a judicial or administrative proceeding initiated by the
17 municipality and directly related to the unit owner's property
18 interest in the condominium by serving the unit owner at the unit
19 owner's last known address, according to the records of the
20 appraisal district in which the condominium is located, by any
21 means permitted by Rule 21a, Texas Rules of Civil Procedure;

22 (B) shall [~~promptly~~] notify the appraisal
23 district in writing of a change in the unit owner's mailing address
24 not later than the 90th day after the date the unit owner changes
25 the address; and

26 (C) may not offer proof in the judicial or
27 administrative proceeding, or in a subsequent related proceeding,

1 that otherwise proper service by mail of the notice was not received
2 not later than three days after the date the notice was deposited in
3 a post office or official depository under the care and custody of
4 the United States Postal Service.

5 SECTION 5. Chapter 214, Local Government Code, is amended
6 by adding Subchapter I to read as follows:

7 SUBCHAPTER I. EMINENT DOMAIN AUTHORITY OF CERTAIN MUNICIPALITIES
8 TO TAKE ABANDONED CONDOMINIUMS

9 Sec. 214.301. APPLICABILITY. This subchapter applies only
10 to a municipality with a population of more than 1.9 million.

11 Sec. 214.302. DEFINITION. In this subchapter,
12 "condominium" means a condominium as defined by Section 81.002 or
13 82.003, Property Code.

14 Sec. 214.303. EMINENT DOMAIN AUTHORITY. A municipality may
15 take a condominium through the use of eminent domain for the purpose
16 of the elimination of urban blight if a tract or unit of real
17 property on which the condominium sits presents the following
18 conditions for at least one year after the date on which notice of
19 the conditions is reasonably attempted to be provided to the
20 property owner:

21 (1) all lawful occupation of or construction activity
22 for the condominium has ceased;

23 (2) the property contains uninhabitable, unsafe, and
24 unsanitary units that are not fit for their intended use because the
25 utilities, sewerage, plumbing, or heating or a similar service or
26 facility of the units has been destroyed, removed, or rendered
27 ineffective; and

1 (3) the property has been the location of
2 substantiated and repeated illegal activity of which the property
3 owner knew or should have known.

4 Sec. 214.304. EXPIRATION OF SUBCHAPTER. This subchapter
5 expires December 31, 2016.

6 SECTION 6. The change in law made by this Act applies only
7 to a condemnation proceeding in which the condemnation petition is
8 filed on or after the effective date of this Act and to any property
9 condemned through the proceeding. A condemnation proceeding in
10 which the condemnation petition is filed before the effective date
11 of this Act and any property condemned through the proceeding are
12 governed by the law in effect immediately before the effective date
13 of this Act, and that law is continued in effect for that purpose.

14 SECTION 7. This Act takes effect September 1, 2011.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 21 2011

Atay Spaul
Secretary of the Senate

BY:

Rodney Ellis

1 Amend H.B. No. 364 (senate committee printing), in SECTION
2 5 of the bill, by striking proposed Section 214.303(2), Property
3 Code (page 2, lines 44-48) and substituting the following:

4 (2) the property:

5 (A) contains uninhabitable, unsafe, and
6 unsanitary units that are not fit for their intended use because
7 the utilities, sewerage, plumbing, or heating or a similar
8 service or facility of the units has been destroyed, removed, or
9 rendered ineffective; or

10 (B) contained units described by Paragraph (A)
11 that were demolished in accordance with a court order issued
12 under Section 54.018, Local Government Code; and

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 23, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB364 by Turner (Relating to condominiums in certain municipalities, including the exercise of eminent domain authority by those municipalities with respect to certain condominiums.),
As Passed 2nd House

No fiscal implication to the State is anticipated.

The bill would amend the Government Code and the Local Government Code relating to the eminent domain authority by municipalities with a population of more than 1.9 million.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, SD, KKR, TP, SZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 6, 2011

TO: Honorable Royce West, Chair, Senate Committee on Intergovernmental Relations

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB364 by Turner (Relating to condominiums in certain municipalities, including the exercise of eminent domain authority by those municipalities with respect to certain condominiums.),
As Engrossed

No fiscal implication to the State is anticipated.

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Source Agencies:

LBB Staff: JOB, KKR, TP, SZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

February 23, 2011

TO: Honorable Rene Oliveira, Chair, House Committee on Land & Resource Management

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB364 by Turner (Relating to condominiums in certain municipalities, including the exercise of eminent domain authority by those municipalities with respect to certain condominiums.),
As Introduced

No fiscal implication to the State is anticipated.

The bill would amend the Local Government Code relating to the eminent domain authority by municipalities with a population of more than 1.9 million.

Local Government Impact

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the House/Senate as to its probable fiscal implication on units of local government.

Source Agencies:

LBB Staff: JOB, SZ