

By: Workman

H.B. No. 3091

A BILL TO BE ENTITLED

AN ACT

relating to uniformity of requirements of certain municipal regulations to local permits, limitations on the application of certain municipal regulations to local permits, and liability of a political subdivision for a violation of certain laws relating to local permits; providing for damages/penalties.

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

SECTION 1. Section 245.002, Local Government Code, is amended to read as follows:

Sec. 245.002. UNIFORMITY OF REQUIREMENTS.

(a) Each regulatory agency shall consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time:

(1) the original application for the permit is filed for review for any purpose, including review for administrative completeness; or

(2) a plan for development of real property or plat application is filed with a regulatory agency.

(a-1) Rights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit

1 sought. An application or plan is considered filed on the date the
2 applicant delivers the application or plan to the regulatory agency
3 or deposits the application or plan with the United States Postal
4 Service by certified mail addressed to the regulatory agency. A
5 certified mail receipt obtained by the applicant at the time of
6 deposit is prima facie evidence of the date the application or plan
7 was deposited with the United States Postal Service.

8 (b) If a series of permits is required for a project, the
9 orders, regulations, ordinances, rules, expiration dates, or other
10 properly adopted requirements in effect at the time the original
11 application for the first permit in that series is filed shall be
12 the sole basis for consideration of all subsequent permits required
13 for the completion of the project. All permits, and any revisions or
14 modifications thereto, required for the project are considered to
15 be a single series of permits. Preliminary plans and related
16 subdivision plats, site plans, and all other development permits
17 for land covered by the preliminary plans or subdivision plats are
18 considered collectively to be one series of permits for a project.

19 (c) After an application for a project is filed, a
20 regulatory agency may not shorten the duration of any permit
21 required for the project.

22 (d) Notwithstanding any provision of this chapter to the
23 contrary, a permit holder may take advantage of recorded
24 subdivision plat notes, recorded restrictive covenants required by
25 a regulatory agency, ~~or~~ a change to the laws, rules, regulations,
26 or ordinances of a regulatory agency that enhance or protect the
27 project, or a change to the zoning or property classification that

1 adds or alters allowable uses of the property related to the
2 project, including changes that lengthen the effective life of the
3 permit after the date the application for the permit was made,
4 without forfeiting any rights under this chapter.

5 (e) A regulatory agency may provide that a permit
6 application expires on or after the 45th day after the date the
7 application is filed if:

8 (1) the applicant fails to provide documents or other
9 information necessary to comply with the agency's technical
10 requirements relating to the form and content of the permit
11 application;

12 (2) the agency provides to the applicant not later
13 than the 10th business day after the date the application is filed
14 written notice of the failure that specifies the necessary
15 documents or other information and the date the application will
16 expire if the documents or other information is not provided; and

17 (3) the applicant fails to provide the specified
18 documents or other information within the time provided in the
19 notice.

20 (f) This chapter does not prohibit a regulatory agency from
21 requiring compliance with technical requirements relating to the
22 form and content of an application in effect at the time the
23 application was filed even though the application is filed after
24 the date an applicant accrues rights under Subsection (a-1).

25 (g) Notwithstanding Section 245.003, the change in law made
26 to Subsection (a) and the addition of Subsections (a-1), (e), and
27 (f) by S.B. No. 848, Acts of the 79th Legislature, Regular Session,

2005, apply only to a project commenced on or after the effective date of that Act.

SECTION 2. Section 245.004, Local Government Code, is amended to read as follows:

Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

(1) a permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or

(B) local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;

~~[(2) municipal zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, property classification, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality,]~~

(3) regulations that specifically control only the use of land in a municipality that does not have zoning and that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, or building size;

(4) regulations for sexually oriented businesses;

(5) municipal or county ordinances, rules,

1 regulations, or other requirements affecting colonias;

2 (65) fees imposed in conjunction with development
3 permits;

4 (76) regulations for annexation that do not affect
5 landscaping or tree preservation or open space or park dedication;

6 (87) regulations for utility connections;

7 (98) regulations to prevent imminent destruction of
8 property or injury to persons from flooding that are effective only
9 within a flood plain established by a federal flood control program
10 and enacted to prevent the flooding of buildings intended for
11 public occupancy;

12 (109) construction standards for public works located
13 on public lands or easements; or

14 (1110) regulations to prevent the imminent destruction
15 of property or injury to persons if the regulations do not:

16 (A) affect landscaping or tree preservation,
17 open space or park dedication, lot size, lot dimensions, lot
18 coverage, building size, residential or commercial density, or the
19 timing of a project; or

20 (B) change development permitted by a
21 restrictive covenant required by a municipality.

22 SECTION 3. Section 245.006, Local Government Code, is
23 amended to read as follows:

24 Sec. 245.006. ENFORCEMENT OF CHAPTER.

25 (a) This chapter may be enforced [~~only~~] through mandamus or
26 declaratory or injunctive relief.

27 (b) A political subdivision's immunity from suit is waived

1 in regard to an action under this chapter. A political subdivision
2 is liable for actual damages, consequential damages, and attorneys'
3 fees related to a violation of this chapter.

4 SECTION 4. The change in law made by this Act applies to any
5 project in progress before or commenced after the effective date of
6 this Act or to a cause of action that accrues before, on, or after
7 the effective date of this Act.

8 SECTION 5. This Act takes effect September 1, 2013.