

By: Guillen

H.B. No. 2215

A BILL TO BE ENTITLED

AN ACT

1
2 relating to notice and opportunity to cure before filing certain
3 enforcement actions against subdividers of land in certain border
4 and economically distressed counties.

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

6 SECTION 1. Subchapter B, Chapter 232, Local Government
7 Code, is amended by adding Section 232.0375 to read as follows:

8 Sec. 232.0375. NOTICE AND OPPORTUNITY TO CURE REQUIRED
9 BEFORE FILING ENFORCEMENT ACTION. (a) Before a civil enforcement
10 action may be filed against a subdivider under this subchapter, the
11 subdivider must be notified in writing about the general nature of
12 the alleged violation and given 90 days from the notification date
13 to cure the violation. After the 90th day after the date of the
14 notification, the enforcement action may proceed.

15 (b) This section does not apply to a civil enforcement
16 action if the attorney general, district attorney, or county
17 attorney asserts that:

18 (1) an alleged violation or threatened violation poses
19 an eminent threat to a consumer or to the health and safety of any
20 person; or

21 (2) a delay in bringing an enforcement action may
22 result in financial loss or increased costs to any person,
23 including the county.

24 (c) This section does not apply if an enforcement action has

1 previously been filed against the subdivider for the same or
2 another alleged violation and had an adverse ruling by a court of
3 competent jurisdiction.

4 (d) This section does not apply to an action filed by a
5 private individual.

6 SECTION 2. Subchapter C, Chapter 232, Local Government
7 Code, is amended by adding Section 232.0805 to read as follows:

8 Sec. 232.0805. NOTICE AND OPPORTUNITY TO CURE REQUIRED
9 BEFORE FILING ENFORCEMENT ACTION. (a) In this section,
10 "subdivider" has the meaning assigned by Section 232.021.

11 (b) Before a civil enforcement action may be filed against a
12 subdivider under this subchapter, the subdivider must be notified
13 in writing about the general nature of the alleged violation and
14 given 90 days from the notification date to cure the violation.
15 After the 90th day after the date of the notification, the
16 enforcement action may proceed.

17 (c) This section does not apply to a civil enforcement
18 action if the attorney general, district attorney, or county
19 attorney asserts that:

20 (1) an alleged violation or threatened violation poses
21 an eminent threat to a consumer or to the health and safety of any
22 person; or

23 (2) a delay in bringing an enforcement action may
24 result in financial loss or increased costs to any person,
25 including the county.

26 (d) This section does not apply if an enforcement action has
27 previously been filed against the subdivider for the same or

1 another alleged violation and had an adverse ruling by a court of
2 competent jurisdiction.

3 (e) This section does not apply to an action filed by
4 private individual.

5 SECTION 3. Subchapter J, Chapter 16, Water Code, is amended
6 by adding Section 16.3541 to read as follows:

7 Sec. 16.3541. NOTICE AND OPPORTUNITY TO CURE REQUIRED
8 BEFORE FILING ENFORCEMENT ACTION. (a) In this section,
9 "subdivider" has the meaning assigned by Section 232.021, Local
10 Government Code.

11 (b) Before a civil enforcement action may be filed against a
12 subdivider under this subchapter, the subdivider must be notified
13 in writing about the general nature of the alleged violation and
14 given 90 days from the notification date to cure the violation.
15 After the 90th day after the date of the notification, the
16 enforcement action may proceed.

17 (c) This section does not apply to a civil enforcement
18 action if the attorney general, district attorney, or county
19 attorney asserts that:

20 (1) an alleged violation or threatened violation poses
21 an eminent threat to a consumer or to the health and safety of any
22 person; or

23 (2) a delay in bringing an enforcement action may
24 result in financial loss or increased costs to any person,
25 including the county.

26 (d) This section does not apply if an enforcement action has
27 previously been filed against the subdivider for the same or

1 another alleged violation and had an adverse ruling by a court of
2 competent jurisdiction.

3 SECTION 4. This Act takes effect September 1, 2015.