

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1681
By: Harless; Minjarez (Alvarado)
Health & Human Services
5/21/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In recent years, flood events have necessitated the evacuation of residents from assisted living facilities, even at times requiring the use of high water rescue vehicles. Despite this, developers have continued to build new facilities in areas prone to flooding.

H.B. 1681 seeks to address this issue by amending the Health and Safety Code to require the executive commissioner of the Health and Human Services Commission by rule to prohibit the construction of an assisted living facility within a 500-year floodplain, as determined by maps or other data from FEMA or, if not mapped by FEMA, the United States Department of Agriculture's soil maps, if the facility is located in a county with a population of 3.3 million or more, is owned or operated by a commercial entity, and has two or more residents.

(Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 1681 amends current law relating to the construction of certain assisted living facilities located within a floodplain in certain counties and to a seller's disclosure of the location of certain real property within a floodplain.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 247.0251, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 247, Health and Safety Code, by adding Section 247.0251, as follows:

Sec. 247.0251. CONSTRUCTION IN 100-YEAR FLOODPLAIN IN CERTAIN COUNTIES PROHIBITED. (a) Defines "100-year floodplain."

(b) Requires the executive commissioner of the Health and Human Services Commission, in a county with a population of 3.3 million or more, by rule to prohibit the construction of a new assisted living facility licensed under Chapter 247 (Assisted Living Facilities) within a 100-year floodplain.

(c) Provides that the prohibition on new construction under Section 247.0251 does not apply to expansions or renovations of existing assisted living facilities.

SECTION 2. Amends Subchapter A, Chapter 5, Property Code, by adding Section 5.020, as follows:

Sec. 5.020. SELLER'S DISCLOSURE OF LOCATION OF CERTAIN REAL PROPERTY IN FLOODPLAIN. (a) Defines "100-year floodplain" and "flood insurance rate map" for Section 5.020.

(b) Requires a seller of a tract of real property that measures less than 15 acres and that does not have a residence located or being constructed on the property at the time of the sale to provide to the purchaser of the property a written notice

disclosing whether any part of the property is located in a 100-year floodplain. Requires that the notice, if any part of the property is located in a 100-year floodplain, include a copy of a current flood insurance rate map that indicates the part of the property that is located in the floodplain.

(c) Requires that the notice be delivered by the seller on or before the effective date of an executory contract binding the purchaser to purchase the property.

(d) Provides that the purchaser is entitled to recover from the seller damages caused by flooding on any part of the purchased real property that is located in a 100-year floodplain if:

(1) the seller fails to provide the purchaser the notice required by Section 5.020; and

(2) the flooding occurs before the fifth anniversary of the date of the purchase.

SECTION 3. Provides that Section 247.0251, Health and Safety Code, as added by this Act, applies only to the construction of a new assisted living facility that begins on or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2021.