By:  Harless, et al. (Senate Sponsor - Alvarado) H.B. No. 1681

(In the Senate - Received from the House May 5, 2021; May 14, 2021, read first time and referred to Committee on Health & Human Services; May 22, 2021, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; May 22, 2021, sent to printer.)

COMMITTEE VOTE

                 Yea Nay Absent  PNV

Kolkhorst         X

Perry             X

Blanco            X

Buckingham        X

Campbell          X

Hall              X

Miles             X

Powell            X

Seliger           X

COMMITTEE SUBSTITUTE FOR H.B. No. 1681 By:  Kolkhorst

A BILL TO BE ENTITLED

AN ACT

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.

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

SECTION 1.  Subchapter B, Chapter 247, Health and Safety Code, is amended by adding Section 247.0251 to read as follows:

Sec. 247.0251.  CONSTRUCTION IN 100-YEAR FLOODPLAIN IN CERTAIN COUNTIES PROHIBITED. (a) In this section, "100-year floodplain" means an area that is subject to inundation by a 100-year flood, which is a flood that has a one percent or greater chance of occurring in any given year, as determined from maps or other data from the Federal Emergency Management Agency, or, if not mapped by the Federal Emergency Management Agency, from the United States Department of Agriculture soil maps.

(b)  In a county with a population of 3.3 million or more, the executive commissioner by rule shall prohibit the construction of a new assisted living facility licensed under this chapter within a 100-year floodplain.

(c)  The prohibition on new construction under this section does not apply to expansions or renovations of existing assisted living facilities.

SECTION 2.  Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.020 to read as follows:

Sec. 5.020.  SELLER'S DISCLOSURE OF LOCATION OF CERTAIN REAL PROPERTY IN FLOODPLAIN. (a) In this section:

(1)  "100-year floodplain" means any area of land that:

(A)  is identified on the flood insurance rate map as a special flood hazard area, which is designated as Zone A, V, A99, AE, AO, AH, VE, or AR on the map;

(B)  has a one percent annual chance of flooding; and

(C)  may include a regulatory floodway, flood pool, or reservoir.

(2)  "Flood insurance rate map" means the most recent flood hazard map published by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Section 4001 et seq.).

(b)  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 shall provide to the purchaser of the property a written notice disclosing whether any part of the property is located in a 100-year floodplain. If any part of the property is located in a 100-year floodplain, the notice must include a copy of a current flood insurance rate map that indicates the part of the property that is located in the floodplain.

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

(d)  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 this section; and

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

SECTION 3.  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.  This Act takes effect September 1, 2021.

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