

By: González of El Paso

H.B. No. 1564

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the appointment of a receivership for and disposition
3 of certain platted lots that are abandoned, unoccupied, and
4 undeveloped in certain counties.

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

6 SECTION 1. The legislature finds that:

7 (1) in the decades beginning with and following the
8 1960s, purchasers from all over the United States and elsewhere
9 were lured by misrepresentations into buying lots in remote areas
10 of the state with promises of future development;

11 (2) the lots in one such area comprised more than
12 50,000 acres that have stood virtually undeveloped for more than 25
13 years after being platted;

14 (3) the area has been carved into lots as small as
15 one-quarter acre, creating highly fractionalized and uneconomic
16 real estate conditions, defeating any reasonable possibility of
17 developing the lots, depriving the purchasers of the value of their
18 investments, and effectively preventing installation of streets,
19 water, sanitation, electricity, and other infrastructure;

20 (4) in addition, the lots had, and have, in common an
21 absence of water and electricity, substandard, if any,
22 thoroughfares, and no reasonable prospect that the lots can be
23 developed for residential or commercial use;

24 (5) over the decades, the original purchasers have

1 abandoned the lots, the purchasers cannot be located, or the
2 purchasers died, in many cases leaving individuals representing
3 multiple generations of families as holders of a complicated web of
4 undivided interests in lots they may know nothing about;

5 (6) the lots are so lacking in value that local
6 governments have either removed them from the tax rolls altogether,
7 are unable to determine who owns them, or have found it uneconomical
8 to collect the pennies in property tax revenue they may represent;

9 (7) in recent years, rapid residential growth has
10 reached the areas adjacent to the lots, creating a substantial
11 demand for residential properties that cannot be met due to the
12 fractionalized nature of the properties and the absence of basic
13 infrastructure;

14 (8) the lots are often used for illegal dumping of
15 waste and hazardous materials and other purposes contrary to public
16 health and safety; and

17 (9) it is necessary to establish a system by which the
18 lots may be aggregated and re-platted in order to be able to return
19 them to the market, provide for streets, water, sanitation,
20 electricity, and other infrastructure, and ensure that any future
21 economic value that may be returned to the lots inures to the
22 benefit of any owners and lienholders who can be located.

23 SECTION 2. Chapter 232, Local Government Code, is amended
24 by adding Subchapter F to read as follows:

25 SUBCHAPTER F. ABANDONED, UNOCCUPIED, AND UNDEVELOPED

26 PLATTED LOTS IN CERTAIN COUNTIES

27 Sec. 232.151. APPLICABILITY. This subchapter applies to a

1 county that:

- 2 (1) has a population of more than 800,000;
3 (2) is adjacent to an international border; and
4 (3) contains more than 30,000 acres of lots that have
5 remained substantially undeveloped for more than 25 years after the
6 date the lots were platted.

7 Sec. 232.152. ADMINISTRATIVE DETERMINATION. (a) In
8 addition to the authority granted under Section 232.045, a
9 commissioners court may implement an expedited process to
10 administratively determine that a platted lot is abandoned,
11 unoccupied, and undeveloped if the lot:

12 (1) has remained undeveloped for 25 years or more
13 after the date the lot was platted;

14 (2) is part of a subdivision in which 50 percent or
15 more of the lots are undeveloped or unoccupied;

16 (3) is part of a subdivision in which 50 percent or
17 more of the lots are 10 acres or less in size;

18 (4) had an assessed value of less than \$1,000 as of
19 January 1, 2021; and

20 (5) as of January 1, 2021, was not valued for ad
21 valorem taxation as land for agricultural use pursuant to
22 Subchapter C, Chapter 23, Tax Code.

23 (b) The county does not have an ownership interest in any
24 lot that is administratively determined to be abandoned,
25 unoccupied, and undeveloped or that is placed in a receivership
26 under this subchapter, except for any existing or future legal
27 interest established by other law.

1 Sec. 232.153. PUBLIC HEARING. (a) Before a county may make
2 an administrative determination that a platted lot is abandoned,
3 unoccupied, and undeveloped, the county must:

4 (1) hold a public hearing on the matter; and

5 (2) make reasonable efforts to notify each owner and
6 lienholder of the lot of the time and place of the hearing as
7 provided by Section 232.154.

8 (b) The hearing may be held by the commissioners court of
9 the county or an appropriate county commission or board appointed
10 by the commissioners court. The Texas Rules of Evidence do not apply
11 to a hearing conducted under this section.

12 (c) At the hearing, an owner or lienholder may provide
13 testimony and present evidence to refute any of the five required
14 elements for a determination under Section 232.152. It is an
15 affirmative defense to a determination under Section 232.152 that a
16 lot's ad valorem taxes have been paid in full for each year that the
17 taxing authority issued a tax invoice.

18 (d) The county may conduct a single hearing for multiple
19 lots and make a determination that multiple lots are abandoned,
20 unoccupied, and undeveloped based on the same evidence.

21 (e) Not later than the 14th day after the date of the
22 hearing, if a lot is determined to be abandoned, unoccupied, and
23 undeveloped, the county shall issue an order of its determination.

24 (f) Not later than the 14th day after the date of the order,
25 the county shall:

26 (1) post notice of the order at the county courthouse;
27 and

1 (2) publish in a newspaper of general circulation in
2 the county in which the lot is located a notice of the determination
3 containing:

4 (A) a description of the lot;

5 (B) the date of the hearing;

6 (C) a brief statement of the results of the
7 order;

8 (D) instructions stating where a complete copy of
9 the order may be obtained; and

10 (E) notice that the order is appealable to a
11 district court in the county within 60 calendar days of the order.

12 (g) In lieu of the notice required by Subsection (f), the
13 county may:

14 (1) post the information required by Subsection (f)(2)
15 on the county's Internet website; and

16 (2) publish a notice in a newspaper of general
17 circulation in the county in which the lot is located stating that:

18 (A) the commissioners court has adopted an order
19 under this subchapter; and

20 (B) the information required by Subsection
21 (f)(2) may be found on the county's Internet website.

22 Sec. 232.154. NOTICE OF HEARING. (a) The county shall:

23 (1) provide notice of the hearing to each record owner
24 of the applicable lot and to each holder of a recorded lien against
25 the applicable lot by:

26 (A) personal delivery;

27 (B) certified mail with return receipt requested

1 to the last known address of each owner and lienholder; or

2 (C) delivery to the last known address of each
3 owner or lienholder by the United States Postal Service using
4 signature confirmation services;

5 (2) publish notice of the hearing in a newspaper of
6 general circulation in the county on or before the 10th day before
7 the date of the hearing and on the county's Internet website; and

8 (3) file in the property records of the county notice
9 of the hearing that contains:

10 (A) the name and last known address of the owner
11 of the applicable lot; and

12 (B) a description of the administrative
13 determination proceeding, including notice that the administrative
14 determination may result in the extinguishment of any and all
15 rights and legal interests in the lot.

16 (b) Notice under Subsection (a)(1) must be provided to each
17 owner and lienholder for whom an address can be reasonably
18 ascertained from the deed of trust or other applicable instrument
19 on file in the office of the county clerk or in the records of the
20 office of the central appraisal district for the county. The filed
21 notice under Subsection (a)(3) must contain the name and address of
22 each owner to the extent that that information can be reasonably
23 ascertained from the deed of trust or other applicable instrument
24 on file in the office of the county clerk or in the records of the
25 office of the central appraisal district for the county.

26 (c) The filing of notice under Subsection (a)(3):

27 (1) is binding on subsequent grantees, lienholders, or

1 other transferees of an interest in the platted lot who acquire that
2 interest after the filing of the notice; and

3 (2) constitutes notice of the proceeding on any
4 subsequent recipient of any interest in the platted lot who
5 acquires that interest after the filing of the notice.

6 (d) An owner or lienholder is presumed to have received
7 actual and constructive notice of the hearing if the commissioners
8 court complies with this section, regardless of whether the
9 commissioners court receives a response from the person.

10 Sec. 232.155. JUDICIAL REVIEW. (a) Any owner or lienholder
11 of record of a platted lot aggrieved by an order issued under
12 Section 232.153 may file in a district court in the county in which
13 the property is located a verified petition alleging that the
14 decision is illegal, in whole or in part, and stating with
15 specificity the grounds of the alleged illegality. The petition
16 must be filed by an owner or lienholder of the lot within 60
17 calendar days of the order. If a petition is not filed within 60
18 calendar days of the order, the order shall become final.

19 (b) On the filing of a petition under Subsection (a), the
20 court may issue a writ of certiorari directed to the county to
21 review the order of the county and shall prescribe in the writ the
22 time within which a return on the writ must be made and served on the
23 relator or the relator's attorney.

24 (c) The county is not required to return the original papers
25 acted on by it, but it is sufficient for the county to return
26 certified or sworn copies of the papers or parts of the papers as
27 may be called for by the writ.

1 (d) Appeal of the county's determination under this
2 subchapter shall be conducted under the substantial evidence rule.

3 Sec. 232.156. CIVIL ACTION FOR RECEIVERSHIP. (a) After a
4 final determination that a platted lot is abandoned, unoccupied,
5 and undeveloped, the county shall bring a civil action to have the
6 lot placed in a receivership. On a final determination that a
7 platted lot is abandoned, unoccupied, and undeveloped as provided
8 by this subchapter, an owner or lienholder's rights and legal
9 interests are extinguished, subject to the provisions of this
10 subchapter regarding any net proceeds resulting from the
11 disposition of the property, and transferred to the receiver.

12 (b) The only allegations required to be pleaded in an action
13 for receivership brought under this section are:

- 14 (1) the identification of the applicable lot;
15 (2) the relationship of the defendant to the real
16 property;
17 (3) the notice of the administrative hearing given to
18 the owner; and
19 (4) the administrative determination that the lot has
20 been abandoned, unoccupied, and undeveloped.

21 (c) The court may appoint as receiver any person with a
22 demonstrated record of knowledge of the problems created by
23 abandoned, unoccupied, and undeveloped platted lots. In selecting a
24 receiver, the court may also take into consideration whether the
25 person owns property in the affected area. The court may not appoint
26 the county, a county official or county employee, or a relative of a
27 county official or county employee within the third degree of

1 consanguinity or affinity as a receiver.

2 (d) In a civil action under this subchapter, the record
3 owners and any lienholders of record of the lot shall be served with
4 personal notice of the proceedings as provided by the Texas Rules of
5 Civil Procedure. Service on the record owners or lienholders
6 constitutes notice to all unrecorded owners or lienholders.

7 Sec. 232.157. AUTHORITY AND DUTY OF RECEIVER. (a) Unless
8 inconsistent with this chapter or other law, the rules of equity
9 govern all matters relating to the appointment, powers, duties, and
10 liabilities of a receiver and to the powers of a court regarding a
11 receiver. A receiver appointed by the court may:

12 (1) take control of the platted lot;

13 (2) make or have made any repairs or improvements to
14 the platted lot to make the lot developable;

15 (3) make provisions for the platted lot to be subject
16 to street, road, drainage, utility, and other infrastructure
17 requirements;

18 (4) aggregate the platted lot with other lots that
19 have been similarly determined to be abandoned, unoccupied, and
20 undeveloped;

21 (5) re-plat the platted lot;

22 (6) accept the grant or donation of any lot within the
23 affected area to carry out the purpose of this subchapter; and

24 (7) exercise all other authority that an owner of the
25 platted lot could have exercised, including the authority to sell
26 the lot.

27 (b) Before a person assumes the duties of a receiver, the

1 person must be sworn to perform the duties faithfully.

2 (c) The appointed receiver is an officer of the court.

3 (d) If a receiver dies, resigns, or becomes incapacitated,
4 the court shall appoint a receiver to succeed the former receiver.

5 (e) If the donation of a lot to the receiver is not
6 challenged before the first anniversary of the donation date, the
7 donation is final and not revocable under any other legal
8 proceeding.

9 (f) All funds that come into the hands of the receiver shall
10 be deposited in a place in this state directed by the court. The
11 receiver's use of the funds in connection with the receiver's duties
12 or authority under this subchapter shall be subject to the approval
13 of the court. All net proceeds from the disposition of a lot by the
14 receiver shall be placed in trust and remain in trust for at least
15 three years, unless claimed before the expiration of the trust
16 period. The court must order additional notices to an owner or
17 lienholder about the net proceeds as are practicable during the
18 trust period and, on expiration of the trust period, any money
19 remaining in the receivership shall escheat to the state. Funds
20 escheated to the state under this subchapter are subject to
21 disposition or recovery under Subchapters C and D, Chapter 71,
22 Property Code.

23 (g) After the receiver has improved the platted lot to the
24 degree that the lot is developable and meets all applicable
25 standards, or before petitioning the court for termination of the
26 receivership, the receiver shall file with the court:

27 (1) a summary and accounting of all costs and expenses

1 incurred, which may, at the receiver's discretion, include a
2 receivership fee of up to 15 percent of the costs and expenses
3 incurred, unless the court, for good cause shown, authorizes a
4 different limit;

5 (2) a statement describing the disposition of each
6 lot, including whether the lot was aggregated with other lots;

7 (3) a statement of all revenues collected by the
8 receiver in connection with the use or disposition of the lots; and

9 (4) to the extent required by the court, a description
10 of any undivided interest of an owner or lienholder, whether
11 identified or not, in the net proceeds from the disposition of the
12 property.

13 (h) The court must approve any sale of the property by the
14 receiver.

15 (i) A receiver shall have a lien on the property under
16 receivership for all of the receiver's unreimbursed costs and
17 expenses and any receivership fee as detailed in the summary and
18 accounting under Subsection (g)(1).

19 Sec. 232.158. SALE OF PROPERTY. (a) A sale under this
20 subchapter must be made by:

21 (1) public auction;

22 (2) sealed bid; or

23 (3) sealed proposal.

24 (b) Before a sale may take place under this subchapter, the
25 receiver must publish notice of the proposed sale before the 60th
26 day before the date the sale is to be held and again before the 30th
27 day before the date the sale is to be held. The notice must be

1 published in English and Spanish in a newspaper of general
2 circulation in the county in which the real property is located.

3 The notice must:

4 (1) clearly identify the property to be sold;

5 (2) specify the procedures and date for the public
6 auction, sealed bid, or sealed proposal method of sale;

7 (3) state the minimum bid for the property, if any;

8 (4) state any specific financial terms of sale imposed
9 by the receiver; and

10 (5) describe the restrictions, conditions, and
11 limitations on the use of the property that the receiver has
12 determined are appropriate, other than the restrictions,
13 conditions, and limitations provided by other law.

14 (c) In addition to the notice required by Subsection (b), to
15 maximize the price at which the property is sold and the number of
16 bidders, the receiver shall exercise best efforts to provide notice
17 of the proposed sale to those persons who may have the business
18 expertise, financial capability, and interest in developing the
19 property, including local, state, and national trade associations
20 whose members are development, real estate, or financial
21 professionals.

22 (d) On the closing of a sale of property under this
23 subchapter, fee simple title shall be vested in the purchaser.

24 (e) The receiver may reject any and all offers. If the
25 receiver rejects all offers, the receiver may subsequently reoffer
26 the same property for sale, reorganize the property and offer the
27 property for sale, or combine all or part of the property with other

1 property and offer the combined property for sale.

2 (f) If the procedures in this section are followed and a
3 sale occurs, the sale price obtained for the property is conclusive
4 as to the fair market value of the property at the time of the sale.

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