

By: González of El Paso

H.B. No. 1564

A BILL TO BE ENTITLED

1 AN ACT

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

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

14 (3) carving that area into lots as small as one-quarter
15 acre, creating highly fractionalized and uneconomic real estate
16 conditions, defeating any reasonable possibility of developing the
17 lots, depriving the purchasers of the value of their investments,
18 and effectively preventing installation of streets, water,
19 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 governments
6 have either removed them from the tax rolls altogether, are unable
7 to determine who owns them, or have found it uneconomical to collect
8 the pennies in property tax revenue they may represent;

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

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

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

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

24 SUBCHAPTER F. ABANDONED, UNOCCUPIED, AND UNDEVELOPED

25 PLATTED LOTS IN CERTAIN COUNTIES

26 Sec. 232.151. APPLICABILITY. This subchapter applies to a
27 county with a population of more than 800,000 that is adjacent to an

1 international border and contains more than 30,000 acres of lots
2 that remain substantially undeveloped despite having been platted
3 more than 25 years ago.

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

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

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

13 (3) is part of a subdivision in which 50 percent or more of
14 the lots are ten acres or less in size;

15 (4) had an assessed value of less than \$1000 as of January 1,
16 2021; and

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

20 (b) The county has no ownership interest in any lot that is
21 administratively determined to be abandoned, unoccupied and
22 undeveloped, or that is placed in a receivership under this
23 subchapter, except for any existing or future legal interest
24 established by other law.

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

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

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

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

9 (c) At the hearing, an owner or lienholder may provide
10 testimony and present evidence to refute any of the three required
11 elements for a determination under Section 232.152.

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

15 (e) After the hearing, if a lot is determined to be
16 abandoned, unoccupied, and undeveloped, the county shall within 14
17 days issue an order of its determination.

18 (f) Within 14 days after the date of the order, the county
19 shall:

20 (1) post notice of the order at the County Courthouse; and

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

24 (A) a description of the lot;

25 (B) the date of the hearing;

26 (C) a brief statement of the results of the order;

27 (D) instructions stating where a complete copy of the order

1 may be obtained; and

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

4 (g) In lieu of the notice required by Subsection (f), the
5 county may publish a notice in a newspaper of general circulation in
6 the county in which the lot is located that the commissioners court
7 has adopted an order under this subchapter and direct the public to
8 the county's website on which the information required by
9 Subsections (f)(2)(A) through (E) may be found.

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

11 (1) provide notice of the hearing to each record owner of
12 the applicable lot and to each holder of a recorded lien against the
13 applicable lot by:

14 (A) personal delivery;

15 (B) certified mail with return receipt requested to the last
16 known address of each owner and lienholder; or

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

20 (2) publish notice of the hearing in a newspaper of general
21 circulation in the county on or before the 10th day before the date
22 of the hearing and on the county's website; and

23 (3) file in the property records of the county notice of the
24 hearing that contains:

25 (A) the name and last known address of the owner of the
26 applicable lot; and

27 (B) a description of the administrative determination

1 proceeding, including notice that the administrative determination
2 may result in the extinguishment of any and all rights and legal
3 interests in the lot.

4 (b) Notice under Subsection (a)(1) must be provided to each
5 owner and lienholder for whom an address can be reasonably
6 ascertained from the deed of trust or other applicable instrument
7 on file in the office of the county clerk or in the records of the
8 office of the central appraisal district for the county. The filed
9 notice under Subsection (a)(3) must contain the name and address of
10 each owner to the extent that that information can be reasonably
11 ascertained from the deed of trust or other applicable instrument
12 on file in the office of the county clerk or in the records of the
13 office of the central appraisal district for the county.

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

15 (1) is binding on subsequent grantees, lienholders, or
16 other transferees of an interest in the platted lot who acquire that
17 interest after the filing of the notice; and

18 (2) constitutes notice of the proceeding on any
19 subsequent recipient of any interest in the platted lot who
20 acquires that interest after the filing of the notice.

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

25 Sec. 232.155. JUDICIAL REVIEW. (a) Any owner or lienholder
26 of record of a platted lot aggrieved by an order issued under
27 Section 232.153 may file in a district court in the county in which

1 the property is located a verified petition alleging that the
2 decision is illegal, in whole or in part, and stating with
3 specificity the grounds of the alleged illegality. The petition
4 must be filed by an owner or lienholder of the lot within 60
5 calendar days of the order. If a petition is not filed within 60
6 calendar days of the order, the order shall become final.

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

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

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

18 Sec. 232.156. CIVIL ACTION FOR RECEIVERSHIP. (a) After a
19 final determination that a platted lot is abandoned, unoccupied,
20 and undeveloped, the county shall bring a civil action to have the
21 lot placed in a receivership. Upon a final determination that a
22 platted lot is abandoned, unoccupied, and undeveloped as provided
23 by this subchapter, an owner or lienholder's rights and legal
24 interests are extinguished, subject to the provisions of this
25 subchapter regarding any net proceeds resulting from the
26 disposition of the property, and transferred to the receiver.

27 (b) The only allegations required to be pleaded in an action

1 for receivership brought under this section are:

2 (1) the identification of the applicable lot;

3 (2) the relationship of the defendant to the real
4 property;

5 (3) the owner was given notice of the administrative
6 hearing; and

7 (4) the lot has been administratively determined to be
8 abandoned, unoccupied, and undeveloped.

9 (c) The court may appoint as receiver any person with a
10 demonstrated record of knowledge of the problems created by
11 abandoned, unoccupied, and undeveloped platted lots. In selecting a
12 receiver, the court may also take into consideration whether the
13 person owns property in the affected area. The court may not appoint
14 as receiver the county, any county official or county employee or
15 any relative of a county official or county employee within the
16 third degree consanguinity or affinity.

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

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

27 (1) take control of the platted lot;

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

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

6 (4) aggregate the platted lot with other lots that
7 have been similarly determined to be abandoned, unoccupied, and
8 undeveloped;

9 (5) re-plat the platted lot; and

10 (6) exercise all other authority that an owner of the
11 platted lot could have exercised, including the authority to sell
12 the lot.

13 (b) Before a person assumes the duties of a receiver, the
14 person must be sworn to perform the duties faithfully.

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

16 (d) In the event a receiver dies, resigns or becomes
17 incapacitated, the court shall appoint a receiver to succeed the
18 former receiver.

19 (e) All funds that come into the hands of the receiver shall
20 be deposited in a place in this state directed by the court. The
21 receiver's use of the funds in connection with the receiver's duties
22 or authority under this subchapter shall be subject to the approval
23 of the court. All net proceeds from the disposition of a lot by the
24 receiver shall be placed in trust and remain in trust for at least
25 three years, unless claimed before the expiration of the trust
26 period. The court must order such additional notices to an owner or
27 lienholder about the net proceeds as are practicable during the

1 trust period and, upon expiration of the trust period, any money
2 remaining in the receivership shall escheat to the state. Funds
3 escheated to the state pursuant to this subchapter are subject to
4 disposition pursuant to Subchapters C and D, Chapter 71, Property
5 Code.

6 (f) When the receiver has improved the platted lot to the
7 degree that it is developable and meets all applicable standards,
8 or before petitioning the court for termination of the
9 receivership, the receiver shall file with the court:

10 (1) a summary and accounting of all costs and expenses
11 incurred, which may, at the receiver's discretion, include a
12 receivership fee of up to 15 percent of the costs and expenses
13 incurred, unless the court, for good cause shown, authorizes a
14 different limit;

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

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

19 (4) to the extent required by the court, a description of
20 any undivided interest of an owner or lienholder, whether
21 identified or not, in the net proceeds from the disposition of the
22 property.

23 (g) The court must approve any sale or lease of the property
24 by the receiver.

25 (h) A receiver shall have a lien on the property under
26 receivership for all of the receiver's unreimbursed costs and
27 expenses and any receivership fee as detailed in the summary and

1 accounting under Subsection (f)(1).

2 SECTION 2. This Act takes effect September 1, 2021.