

AN ACT

1
2 relating to the breach of development agreement contracts governing
3 land in the extraterritorial jurisdiction of certain
4 municipalities.

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

6 SECTION 1. Section [212.172](#), Local Government Code, is
7 amended by amending Subsections (a), (c), (e), (f), (g), and (h) and
8 adding Subsections (i), (j), and (k) to read as follows:

9 (a) In this subchapter:

10 (1) "Adjudication" of a claim means the bringing of a
11 civil suit and prosecution to final judgment in county or state
12 court and includes the bringing of an authorized arbitration
13 proceeding and prosecution to final resolution in accordance with
14 any mandatory procedures established in the contract agreement for
15 the arbitration proceedings.

16 (2) "Contract" means a contract for a development
17 agreement authorized by this subchapter.

18 (3) "Extraterritorial [~~,"extraterritorial]~~
19 jurisdiction" means a municipality's extraterritorial jurisdiction
20 as determined under Chapter [42](#).

21 (c) A contract [~~An agreement under this subchapter] must:~~

22 (1) be in writing;

23 (2) contain an adequate legal description of the land;

24 (3) be approved by the governing body of the

1 municipality and the landowner; and

2 (4) be recorded in the real property records of each
3 county in which any part of the land that is subject to the contract
4 [~~agreement~~] is located.

5 (e) A municipality in an affected county, as defined by
6 Section 16.341, Water Code, may not enter into a contract [~~an~~
7 ~~agreement under this subchapter~~] that is inconsistent with the
8 model rules adopted under Section 16.343, Water Code.

9 (f) The contract [~~agreement~~] between the governing body of
10 the municipality and the landowner is binding on the municipality
11 and the landowner and on their respective successors and assigns
12 for the term of the contract [~~agreement~~]. The contract [~~agreement~~]
13 is not binding on, and does not create any encumbrance to title as
14 to, any end-buyer of a fully developed and improved lot within the
15 development, except for land use and development regulations that
16 may apply to a specific lot. Annexation by a municipality of land
17 subject to a contract does not invalidate the enforceability of the
18 contract or infringe on the rights of a party to adjudicate a claim
19 arising under the contract.

20 (g) A contract:

21 (1) [~~An agreement under this subchapter~~] constitutes a
22 permit under Chapter 245; and

23 (2) is a program authorized by the legislature under
24 Section 52-a, Article III, Texas Constitution.

25 (h) A contract [~~An agreement~~] between a municipality and a
26 landowner entered into prior to the effective date of this section,
27 or any amendment to this section, and that complies with this

1 section is validated, enforceable, and may be adjudicated subject
2 to the terms and conditions of this subchapter, as amended.

3 (i) A municipality that enters into a contract waives
4 immunity from suit for the purpose of adjudicating a claim for
5 breach of the contract.

6 (j) Except as provided by Subsection (k), actual damages,
7 specific performance, or injunctive relief may be granted in an
8 adjudication brought against a municipality for breach of a
9 contract. The total amount of money awarded in an adjudication
10 brought against a municipality for breach of a contract is limited
11 to the following:

12 (1) the balance due and owed by the municipality under
13 the contract as it may have been amended;

14 (2) any amount owed by the landowner as a result of the
15 municipality's failure to perform under the contract, including
16 compensation for the increased cost of infrastructure as a result
17 of delays or accelerations caused by the municipality;

18 (3) reasonable attorney's fees; and

19 (4) interest as allowed by law, including interest as
20 calculated under Chapter 2251, Government Code.

21 (k) Damages awarded in an adjudication brought against a
22 municipality for breach of a contract may not include:

23 (1) consequential damages, except as expressly
24 allowed under Subsection (j)(2); or

25 (2) exemplary damages.

26 SECTION 2. Section 212.174, Local Government Code, is
27 amended to read as follows:

1 Sec. 212.174. MUNICIPAL UTILITIES. A municipality may not
2 require a contract [~~an agreement under this subchapter~~] as a
3 condition for providing water, sewer, electricity, gas, or other
4 utility service from a municipally owned or municipally operated
5 utility that provides any of those services.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 1929 was passed by the House on May 13, 2021, by the following vote: Yeas 90, Nays 55, 2 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1929 on May 28, 2021, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1929 on May 30, 2021, by the following vote: Yeas 110, Nays 33, 2 present, not voting.

Chief Clerk of the House

H.B. No. 1929

I certify that H.B. No. 1929 was passed by the Senate, with amendments, on May 25, 2021, by the following vote: Yeas 21, Nays 10; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1929 on May 30, 2021, by the following vote: Yeas 21, Nays 10.

Secretary of the Senate

APPROVED: _____

Date

Governor