

By: Guillen

H.B. No. 4121

A BILL TO BE ENTITLED

AN ACT

relating to prompt review of land development applications and the award of court costs and attorney's fees against a political subdivision in certain actions.

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

SECTION 1. Chapter 250, Subtitle C, Title 7, Local Government Code, is amended by adding Section 250.010 to read as follows:

Sec. 250.010. PROMPT APPROVAL OF LAND DEVELOPMENT APPLICATIONS. (a) For purposes of this section:

(1) "land development" means any activity relating to the development or redevelopment of land including, but not limited to, subdivision development, construction of subdivision improvements, site plan development, development of on-site or off-site improvements, and a project within the meaning of Sec. 245.001(3).

(2) "land development application" means an application for subdivision development plan, a subdivision plan, subdivision construction plan, a site development concept plan, a site plan, a site development plan, an application submitted under Chapter 212 or Chapter 232, and any other application relating to land development, excluding only an application for zoning under Chapter 211 or an application to amend a comprehensive plan under Chapter 213.

1       (b) A political subdivision shall approve, approve with  
2 conditions, or disapprove a land development application within 30  
3 days after the date the land development application is filed. A  
4 land development application is approved by the political  
5 subdivision unless it is disapproved within that period.

6       (c) Notwithstanding Subsection (b), the political  
7 subdivision may extend the 30-day period described by that  
8 subsection for a period not to exceed 30 days if:

9           (1) the applicant requests the extension in writing to  
10 the political subdivision responsible for approving the land  
11 development application; and

12           (2) the political subdivision approves the extension  
13 request.

14       (d) If the political subdivision responsible for reviewing  
15 the land development application fails to approve, approve with  
16 conditions, or disapprove the land development application within  
17 the prescribed period, the political subdivision on the applicant's  
18 request shall issue a certificate stating the date the land  
19 development application was filed and that the political  
20 subdivision failed to act on the land development application  
21 within the prescribed period. The certificate shall serve as a  
22 permit approving the land development application.

23       (e) A political subdivision that conditionally approves or  
24 disapproves a land development application shall provide the  
25 applicant a written statement of the conditions for the conditional  
26 approval or reasons for disapproval that clearly articulates each  
27 specific condition for the conditional approval or reason for

1 disapproval. Each condition or reason specified in the written  
2 statement:

3 (1) must:

4 (A) be directly related to the requirements under  
5 this section; and

6 (B) include a citation to the law, including a  
7 statute or municipal ordinance, that is the basis for the  
8 conditional approval or disapproval, if applicable; and

9 (2) may not be arbitrary.

10 (f) After the conditional approval or disapproval of a land  
11 development application under this section, the applicant may  
12 submit to the political subdivision that conditionally approved or  
13 disapproved the land development application a written response  
14 that satisfies each condition for the conditional approval or  
15 remedies each reason for disapproval provided. The political  
16 subdivision may not establish a deadline for an applicant to submit  
17 the response.

18 (g) A political subdivision that receives a response under  
19 Subsection (f) shall determine whether to approve or disapprove the  
20 applicant's previously conditionally approved or disapproved land  
21 development application not later than the 15th day after the date  
22 the response was submitted.

23 (h) A political subdivision that conditionally approves or  
24 disapproves a plan or plat following the submission of a response  
25 under Subsection (f):

26 (1) must comply with Subsection (g); and

27 (2) may disapprove the land development application

1 only for a specific condition or reason provided to the applicant  
2 under Subsection (e).

3 (i) A political subdivision that receives a response under  
4 Subsection (f) shall approve a previously conditionally approved or  
5 disapproved land development application if the response  
6 adequately addresses each condition of the conditional approval or  
7 each reason for the disapproval.

8 (j) A previously conditionally approved or disapproved land  
9 development application is approved if:

10 (1) the applicant filed a response that meets the  
11 requirements of Subsection (f); and

12 (2) the municipal authority or governing body that  
13 received the response does not disapprove the plan or plat on or  
14 before the date required by Subsection (g).

15 (k) A political subdivision responsible for approving land  
16 development applications may not request or require an applicant to  
17 waive a deadline or other approval procedure under this section.

18 (l) An applicant may challenge a conditional approval or  
19 disapproval of a land development application under this section in  
20 a county or district court of the county in which the development  
21 project is located within 30 days of the conditional approval or  
22 disapproval.

23 (m) In a legal action challenging a conditional approval or  
24 a disapproval of a land development application under this section,  
25 the political subdivision has the burden of proving by clear and  
26 convincing evidence that the disapproval any applicable case law.  
27 The court may not use a deferential standard.

1       (n) A political subdivision may not require an applicant to  
2 waive the right to file a legal action challenging a conditional  
3 approval or a disapproval of a land development application under  
4 this section as a condition of approval for a development project.

5       (o) An applicant who prevails in a legal action challenging  
6 a conditional approval or a disapproval of a land development  
7 application under this section is entitled to court costs and  
8 reasonable attorney's fees, including expert witness fees, to be  
9 paid by the political subdivision.

10       SECTION 2. Chapter 250, Subtitle C, Title 7, Local  
11 Government Code, is amended by adding Section 250.011 to read as  
12 follows:

13       Sec. 250.011. AWARD OF COURT COSTS AND ATTORNEY'S FEES IN  
14 CERTAIN ACTIONS. (a) If a court determines that an order,  
15 ordinance, regulatory decision, denial of an application, refusal  
16 to issue a permit, or similar measure of a political subdivision is  
17 unenforceable because it is preempted by the state constitution or  
18 a state statute, the court shall award the person prevailing in the  
19 action challenging the order, ordinance, regulatory decision,  
20 denial of an application, refusal to issue a permit, or measure on  
21 that basis court costs and reasonable attorney's fees, including  
22 expert witness fees, to be paid by the political subdivision..

23       (b) If a court determines that an officer of a political  
24 subdivision has failed to perform an act of the office required by  
25 the state constitution or a state statute, the court shall award the  
26 person prevailing in the action challenging the officer for failure  
27 to perform that act court costs and reasonable attorney's fees,

1 including expert witness fees, to be paid by the political  
2 subdivision for which the officer served at the time of the failure  
3 to perform the act.

4 (c) If a court determines that a political subdivision has  
5 failed to comply with the requirements of Chapter 212 of this Code,  
6 the court shall award the person prevailing in the action court  
7 costs and reasonable attorney's fees, including expert witness  
8 fees, to be paid by the political subdivision.

9 (d) If a court determines that a political subdivision has  
10 failed to comply with the requirements of Chapter 232 of this Code,  
11 the court shall award the person prevailing in the action court  
12 costs and reasonable attorney's fees, including expert witness  
13 fees, to be paid by the political subdivision.

14 (e) This section applies only to an action commenced on or  
15 after the effective date of this Act.

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