

By: Holland

H.B. No. 2789

Substitute the following for H.B. No. 2789:

By: Burns

C.S.H.B. No. 2789

A BILL TO BE ENTITLED

AN ACT

relating to regulation of accessory dwelling units by political subdivisions.

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

SECTION 1. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 247 to read as follows:

CHAPTER 247. REGULATION OF ACCESSORY DWELLING UNITS BY POLITICAL SUBDIVISIONS

Sec. 247.001. DEFINITION. In this chapter, "accessory dwelling unit" means a residential housing unit that is:

(1) located on any lot that is not zoned or is zoned for a single-family home or duplex;

(2) independent of the attached or detached primary dwelling unit; and

(3) a complete and independent living facility for at least one individual.

Sec. 247.002. CERTAIN REGULATIONS PROHIBITED. (a) A political subdivision may not adopt or enforce an order, ordinance, or other measure that:

(1) prohibits an owner of a lot described by Section 247.001(1) from building an accessory dwelling unit before, after, or concurrently with the building of the primary dwelling unit on the lot;

(2) subject to Section 247.003(e), prohibits the owner

1 from selling or entering into a residential lease of an accessory
2 dwelling unit;

3 (3) requires any owner occupancy of the primary
4 dwelling unit;

5 (4) requires parking for an accessory dwelling unit;

6 (5) requires a minimum lot size for an accessory
7 dwelling unit that is larger than the minimum lot size required by
8 the political subdivision for:

9 (A) a single-family home or duplex, as
10 applicable, in a lot zoned for that purpose; or

11 (B) an accessory dwelling unit on September 1,
12 2023, if the political subdivision only required a property owner
13 to provide notice to the political subdivision of the proposed unit
14 in order to be authorized to build the unit;

15 (6) requires side or rear building, waterway, plane,
16 or other setbacks larger than five feet for an accessory dwelling
17 unit;

18 (7) prevents an owner of a lot zoned for a
19 single-family home or duplex from converting an existing structure
20 to an accessory dwelling unit by requiring setbacks larger than the
21 current structure's setbacks;

22 (8) applies the political subdivision's local growth
23 restrictions or density or bulk limitations to an accessory
24 dwelling unit;

25 (9) provides a limitation on the square footage of an
26 accessory dwelling unit that is less than:

27 (A) 50 percent of the square footage of the

1 primary dwelling unit; or
2 (B) 800 square feet;
3 (10) regulates the design of an accessory dwelling
4 unit, including the shape, size, massing, or distribution of square
5 footage between floors;
6 (11) requires the height of a room in an accessory
7 dwelling unit to be more than 14 feet, measured from floor to
8 ceiling;
9 (12) charges an impact fee:
10 (A) in any amount for an accessory dwelling unit
11 that is less than 800 square feet; or
12 (B) that conflicts with Chapter 395;
13 (13) charges any additional fee or any exaction,
14 including a parkland or right-of-way dedication, specific to
15 accessory dwelling units;
16 (14) imposes any restriction of accessory dwelling
17 unit occupancy on the basis of age or employment relationship with
18 the primary dwelling unit owner;
19 (15) prohibits an owner of a lot that is at least
20 10,000 square feet that is described by Section 247.001(1) from
21 building two accessory dwelling units before, after, or
22 concurrently with the primary dwelling unit; or
23 (16) prohibits the construction of accessory dwelling
24 units consistent with this chapter under otherwise applicable open
25 space or permeable surface restrictions.
26 (b) Subsection (a)(4) does not limit a political
27 subdivision's authority to require the replacement of parking

1 required for the primary dwelling unit if the accessory dwelling
2 unit construction eliminates the primary dwelling unit's existing
3 parking.

4 Sec. 247.003. AUTHORIZED REGULATION. (a) Except as
5 provided by this chapter, a political subdivision's height
6 limitations, front setback limitations, site plan review, and other
7 zoning requirements that are generally applicable to residential
8 construction for the area in which an accessory dwelling unit is
9 built apply to the accessory dwelling unit.

10 (b) A political subdivision may publish accessory dwelling
11 unit plans, building codes, and design standards that are permitted
12 in the political subdivision. Subject to Section 247.002, standards
13 may include height, setback, landscape, aesthetics standards, and
14 maximum size of an accessory dwelling unit.

15 (c) A political subdivision may authorize an accessory
16 dwelling unit on a lot that:

17 (1) contains a structure subject to a historic
18 preservation law, subject to a political subdivision's authority to
19 regulate under other law, including Section [211.003](#);

20 (2) is located in an area used to implement a water
21 conservation plan described by Section [11.1271](#) or [13.146](#), Water
22 Code; or

23 (3) is located in an area subject to a standard imposed
24 by the Texas Water Development Board as described by Section
25 [3000.002\(c\)](#), Government Code.

26 (d) A political subdivision may apply the political
27 subdivision's regulations on short-term rental units to an

1 accessory dwelling unit.

2 (e) A political subdivision may prohibit the sale of an
3 accessory dwelling unit separately from the primary dwelling unit.

4 Sec. 247.004. PERMIT APPROVAL REQUIREMENTS. (a) A
5 political subdivision that requires a permit to construct an
6 accessory dwelling unit shall:

7 (1) process the application for the permit
8 ministerially without discretionary review or a hearing;

9 (2) consider only whether the application satisfies
10 the applicable building codes, design standards, and fire codes;
11 and

12 (3) approve or deny the application not later than the
13 60th day after the date the applicant submits the completed
14 application.

15 (b) A permit application described by Subsection (a) is
16 considered approved if the political subdivision to which the
17 application is submitted does not approve or deny the application
18 on or before the 60th day after the date the applicant submits the
19 application.

20 Sec. 247.005. EFFECT ON OTHER RESTRICTIONS AND RULES. This
21 chapter does not supersede, preempt, or apply to a historic
22 preservation rule, deed restriction, or homeowners association
23 rule that limits or prohibits the construction of an accessory
24 dwelling unit.

25 Sec. 247.006. ENFORCEMENT. (a) A person may submit a
26 complaint to the attorney general of a suspected violation of this
27 chapter.

1 (b) Notwithstanding any other law, if the attorney general
2 determines that a political subdivision has violated this chapter,
3 the political subdivision may not adopt an ad valorem tax rate for
4 the following ad valorem tax year that exceeds the political
5 subdivision's no-new-revenue tax rate for that following tax year.

6 SECTION 2. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2023.