

By: Guillen, Gamez, et al.

H.B. No. 4108

Substitute the following for H.B. No. 4108:

By: Burns

C.S.H.B. No. 4108

A BILL TO BE ENTITLED

AN ACT

relating to subdivision plat requirements.

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

SECTION 1. Section 232.0015(f), Local Government Code, is amended to read as follows:

(f) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) all of the lots of the subdivision are ~~[more than]~~ 10 or more acres in area; and

(2) the owner does not lay out a part of the tract described by Section 232.001(a)(3).

SECTION 2. Sections 232.022(b) and (d), Local Government Code, are amended to read as follows:

(b) This subchapter applies only to land that is subdivided into two or more lots that are intended primarily for residential use in the jurisdiction of the county. A lot is presumed to be intended for residential use if the lot is less than five acres ~~[or less]~~. This subchapter does not apply if the subdivision:

(1) is incident to the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity, as determined under Chapter 573, Government Code; or

1 (2) has received an exemption from a county under
2 Section 16.350(d), Water Code.

3 (d) This subchapter does not apply if all of the lots of the
4 subdivision are [~~more than~~] 10 acres or more.

5 SECTION 3. Section 232.023(a), Local Government Code, is
6 amended to read as follows:

7 (a) A subdivider of land must have a plat of the subdivision
8 prepared if at least one of the lots of the subdivision is less than
9 five acres [~~or less~~]. A commissioners court by order may require
10 each subdivider of land to prepare a plat if none of the lots is less
11 than five acres [~~or less~~] but at least one of the lots of a
12 subdivision is [~~more than~~] five acres or more but less [~~not more~~]
13 than 10 acres.

14 SECTION 4. Subchapter B, Chapter 232, Local Government
15 Code, is amended by adding Section 232.0231 to read as follows:

16 Sec. 232.0231. EXCEPTIONS TO PLAT REQUIREMENT. (a) A
17 county may not require the owner of a tract of land located outside
18 the limits of a municipality who divides the tract into two or more
19 parts to have a plat of the subdivision prepared if:

20 (1) the owner does not lay out a part of the tract
21 described by Section 232.001(a)(3); or

22 (2) the lots are sold to adjoining landowners.

23 (b) A county may, in its sole discretion and on a
24 determination that good cause exists, grant an exception to the
25 plat requirements of this subchapter for an individual lot that the
26 county determines:

27 (1) is located within 700 feet of a connection to a

municipal water service;

(2) is adjacent to a public road;

(3) has sufficient space to accommodate a sewer service facility that complies with the model rules adopted under Section 16.343, Water Code; and

(4) a civil engineer registered to practice in this state has certified the lot:

(A) has adequate drainage; and

(B) is not in a floodplain.

SECTION 5. Section 232.027, Local Government Code, is amended to read as follows:

Sec. 232.027. BOND REQUIREMENTS. (a) Except as provided by Subsection (c), unless ~~[Unless]~~ a person has completed the installation of all water and sewer service facilities and roads and streets required by this subchapter on the date that person applies for final approval of a plat under Section 232.024, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The subdivider must comply with the requirement before subdividing the tract.

(b) A ~~The~~ bond required by this section must:

(1) for a bond for construction of water and sewer service facilities, be conditioned on the construction or

1 installation of [~~water and sewer service~~] facilities that will be
2 in compliance with the model rules adopted under Section 16.343,
3 Water Code; or

4 (2) for a bond for construction of roads and streets,
5 meet the requirements of Section 232.004.

6 (c) The commissioners court may, in its sole discretion,
7 allow a person to stop maintaining a bond for construction of sewer
8 service facilities under this section if:

9 (1) the person has completed the installation of all
10 water facilities and roads and streets required by this subchapter;
11 and

12 (2) the person delivers to the commissioners court an
13 affidavit as described by Subsection (d) from each owner of a lot
14 that does not have an installed sewer service facility.

15 (d) The affidavit under Subsection (c)(2) must include
16 language substantially similar to the following:

17 "I understand that I may not be eligible to receive
18 water or electricity service unless I install a septic facility on
19 my lot. I voluntarily assume all financial responsibility to hire a
20 licensed installer to install an on-site sewage facility that
21 complies with Subchapter B, Chapter 232, Local Government Code,
22 regarding subdivision platting requirements; with the model rules
23 adopted under Section 16.343(c), Water Code, regarding septic
24 systems; with Chapter 366, Health and Safety Code; and with the
25 Construction Standards for On-Site Sewage Facilities adopted by the
26 Texas Commission on Environmental Quality and other law and rules
27 applicable to sewage facilities."

SECTION 6. Section 232.0315(b), Local Government Code, is amended to read as follows:

(b) A county shall include in the public notice of sale of the property and the deed conveying the property a statement substantially similar to the following:

"THIS SALE IS BEING CONDUCTED PURSUANT TO STATUTORY OR JUDICIAL REQUIREMENTS. BIDDERS WILL BID ON THE RIGHTS, TITLE, AND INTERESTS, IF ANY, IN THE REAL PROPERTY OFFERED.

"THE PROPERTY IS SOLD AS IS, WHERE IS, AND WITHOUT ANY WARRANTY, EITHER EXPRESS OR IMPLIED. NEITHER THE COUNTY NOR THE SHERIFF'S DEPARTMENT WARRANTS OR MAKES ANY REPRESENTATIONS ABOUT THE PROPERTY'S TITLE, CONDITION, HABITABILITY, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. BUYERS ASSUME ALL RISKS.

"IN SOME SITUATIONS, A LOT OF LESS THAN FIVE ACRES [~~OR LESS~~] IS PRESUMED TO BE INTENDED FOR RESIDENTIAL USE. HOWEVER, IF THE PROPERTY LACKS WATER OR WASTEWATER SERVICE, THE PROPERTY MAY NOT QUALIFY FOR RESIDENTIAL USE. A POTENTIAL BUYER WHO WOULD LIKE MORE INFORMATION SHOULD MAKE ADDITIONAL INQUIRIES OR CONSULT WITH PRIVATE COUNSEL."

SECTION 7. Section 232.033, Local Government Code, is amended by adding Subsection (i) to read as follows:

(i) A person who holds a real estate broker's or sales agent's license under Chapter 1101, Occupations Code, acting in the person's capacity as a real estate broker or sales agent is not an agent of a seller or subdivider for purposes of this section.

SECTION 8. Section 232.035, Local Government Code, is amended by adding Subsection (g) to read as follows:

1 (g) A person who holds a real estate broker's or sales
2 agent's license under Chapter 1101, Occupations Code, acting in the
3 person's capacity as a real estate broker or sales agent is not an
4 agent of a seller or subdivider for purposes of this section.

5 SECTION 9. Section 232.072(a), Local Government Code, is
6 amended to read as follows:

7 (a) The owner of a tract of land that divides the tract in
8 any manner that creates at least one lot of less than five acres [~~or~~
9 ~~less~~] intended for residential purposes must have a plat of the
10 subdivision prepared. A commissioners court by order may require
11 each subdivider of land to prepare a plat if none of the lots is less
12 than five acres [~~or less~~] but at least one of the lots of the
13 subdivision is [~~more than~~] five acres or more but less [~~not more~~]
14 than 10 acres.

15 SECTION 10. Section 232.080, Local Government Code, is
16 amended by adding Subsection (d) to read as follows:

17 (d) A court having jurisdiction of an enforcement action
18 under this section shall dismiss the action if the defendant:

19 (1) remedies the violation that is the subject of the
20 enforcement action not later than the 45th day after the date the
21 defendant receives notice of the action; and

22 (2) shows good cause for the dismissal.

23 SECTION 11. Section 16.350(d), Water Code, is amended to
24 read as follows:

25 (d) A county or municipality that receives funds or
26 financial assistance under Section 15.407 of this code or
27 Subchapter K, Chapter 17, of this code may grant an exemption for a

subdivision from the requirements of the model rules only if:

(1) the county or municipality supplies the subdivision with water supply and sewer services that meet the standards of the model rules; or

(2) the subdivision involves four or fewer lots that:

(A) front an existing street that meets the standards adopted by the county or municipality and does not require the creation of any new street; and

(B) have access to an existing water supply and sewer service that meets the standards of the model rules and does not require the extension of water or sewer facilities.

SECTION 12. This Act takes effect September 1, 2023.