

By: Hughes

S.B. No. 491

A BILL TO BE ENTITLED

AN ACT

relating to building height restrictions in certain municipalities.

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

SECTION 1. Subchapter Z, Chapter 214, Local Government Code, is amended by adding Section 214.908 to read as follows:

Sec. 214.908. LIMITATION ON BUILDING HEIGHT RESTRICTION.

(a) This section applies only to a municipality with a population of more than 725,000.

(b) A municipality may not adopt or enforce an ordinance, regulation, or other measure that limits the height of a building based on the building's proximity to a lot that is located more than 50 feet from the building.

(c) The prohibition described by Subsection (b) applies to a zoning regulation that limits the maximum building height authorized for a lot.

(d) For purposes of this section, the proximity of a building to a lot is measured along the shortest straight line between the building and the lot's lot line.

(e) This section does not affect the application of a restriction or regulation imposed by:

(1) Chapter 3151, Government Code;

(2) federal law, including a restriction or regulation affecting a military base or airport;

1 (3) a municipality that contains a World Heritage Site
2 declared by the United Nations Educational, Scientific and Cultural
3 Organization and intended to protect a building or area designated
4 for protection based on the building's or area's historical,
5 cultural, or architectural importance and significance; or

6 (4) a municipality related to the height of a building
7 near an airport, including a military airport, commercial service
8 airport, or joint-use airport.

9 (f) This section does not apply to a tower that is:

10 (1) a fixed, uninhabitable structure, regardless of
11 whether free-standing or guyed; and

12 (2) not designed to act as a shelter or to be occupied
13 for any use.

14 (g) This section does not affect the validity or
15 enforceability by any person of a restrictive covenant or deed
16 restriction.

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