

By: Hughes

S.B. No. 1412

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) prohibits the owner from entering into a

- 1 residential lease for an accessory dwelling unit;
2 (3) requires any owner occupancy of the primary
3 dwelling unit;
4 (4) requires parking for an accessory dwelling unit on
5 a lot that:
6 (A) was platted before 1965;
7 (B) is less than 7,000 square feet; or
8 (C) is located within 1,320 feet of a public
9 transit line;
10 (5) requires a minimum lot size for an accessory
11 dwelling unit that is larger than the minimum lot size required by
12 the political subdivision for:
13 (A) a single-family home or duplex, as
14 applicable, in a lot zoned for that purpose; or
15 (B) an accessory dwelling unit on September 1,
16 2023, if the political subdivision only required a property owner
17 to provide notice to the political subdivision of the proposed unit
18 to be authorized to build the unit;
19 (6) requires side or rear building, waterway, plane,
20 or other setbacks larger than five feet for an accessory dwelling
21 unit;
22 (7) prevents an owner of a lot zoned for a
23 single-family home or duplex from converting an existing structure
24 to an accessory dwelling unit by requiring setbacks larger than the
25 current structure's setbacks;
26 (8) applies the political subdivision's local growth
27 restrictions or density or bulk limitations to an accessory

1 dwelling unit;

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

4 (A) 50 percent of the square footage of the
5 primary dwelling unit; or

6 (B) 800 square feet;

7 (10) regulates the design of an accessory dwelling
8 unit, including the shape, size, massing, or distribution of square
9 footage between floors;

10 (11) requires the height of an accessory dwelling unit
11 to be less than 14 feet, measured from floor to ceiling;

12 (12) charges an impact fee unless the accessory
13 dwelling unit requires:

14 (A) an increase in the size of the meter or
15 connection to serve the primary dwelling unit; or

16 (B) a new meter or connection for the accessory
17 dwelling unit;

18 (13) charges any additional fee or any exaction,
19 including a parkland or right-of-way dedication;

20 (14) imposes any restriction of accessory dwelling
21 unit occupancy on the basis of age or employment relationship with
22 the primary dwelling unit owner;

23 (15) prohibits the construction of accessory dwelling
24 units consistent with this chapter under otherwise applicable open
25 space or permeable surface restrictions;

26 (16) prohibits construction of an accessory dwelling
27 unit in accordance with the current residential building code

1 adopted by this state or a housing regulatory authority of this
2 state; or

3 (17) prohibits an accessory dwelling unit based on its
4 orientation on the lot with respect to the primary dwelling unit if
5 space allows for that orientation.

6 (b) Subsection (a)(4) does not limit a political
7 subdivision's authority to require the replacement of parking
8 required for the primary dwelling unit if the accessory dwelling
9 unit construction eliminates the primary dwelling unit's existing
10 parking.

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

17 (b) A political subdivision may publish accessory dwelling
18 unit plans, building codes, and design standards that are permitted
19 in the political subdivision. Subject to Section 247.002, standards
20 may include height, setback, landscape, and maximum size of an
21 accessory dwelling unit.

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

24 (1) contains a structure subject to a historic
25 preservation law, subject to a political subdivision's authority to
26 regulate under other law, including Section 211.003;

27 (2) is located in an area used to implement a water

1 conservation plan described by Section 11.1271 or 13.146, Water
2 Code; or

3 (3) is located in an area subject to a standard imposed
4 by the Texas Water Development Board as described by Section
5 3000.002(c), Government Code.

6 (d) A political subdivision may apply the political
7 subdivision's regulations on short-term rental units to an
8 accessory dwelling unit.

9 (e) A political subdivision may prohibit the sale of an
10 accessory dwelling unit separately from the primary dwelling unit
11 unless:

12 (1) the accessory dwelling unit is located on a
13 separate lot from the primary dwelling unit; or

14 (2) the accessory dwelling unit and the primary
15 dwelling unit are separate condominium units under Chapter 82,
16 Property Code.

17 (f) A political subdivision may apply the political
18 subdivision's parking regulations that are not prohibited under
19 Section 247.002(a)(4) to an accessory dwelling unit if the
20 regulations do not:

21 (1) require more than one parking space for each
22 accessory dwelling unit; and

23 (2) regulate the placement or adequacy of parking.

24 Sec. 247.004. PERMIT APPROVAL REQUIREMENTS. (a) A
25 political subdivision that requires a permit to construct an
26 accessory dwelling unit shall:

27 (1) process the application for the permit

1 ministerially without discretionary review or a hearing;

2 (2) consider only whether the application satisfies
3 the applicable building codes, design standards, and fire codes;
4 and

5 (3) approve or deny the application not later than the
6 60th day after the date the applicant submits the completed
7 application.

8 (b) A permit application described by Subsection (a) is
9 considered approved if the political subdivision to which the
10 application is submitted does not approve or deny the application
11 on or before the 60th day after the date the applicant submits the
12 application.

13 Sec. 247.005. EFFECT ON OTHER RESTRICTIONS AND RULES. This
14 chapter does not supersede, preempt, or apply to a historic
15 preservation rule, deed restriction, or homeowners association
16 rule that limits or prohibits the construction of an accessory
17 dwelling unit.

18 Sec. 247.006. PROPERTY OWNER ACTION. (a) A property owner
19 may bring an action against a political subdivision that violates
20 this chapter for damages resulting from the violation and
21 appropriate equitable relief.

22 (b) A court may award a prevailing claimant reasonable
23 attorney's fees and costs incurred in bringing an action under this
24 section. The claimant may not recover exemplary damages in the
25 action.

26 (c) Governmental immunity of a political subdivision to
27 suit and from liability is waived to the extent of liability created

1 by this section.

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