

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 selling or renting an

1 accessory dwelling unit;

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

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

5 (5) requires a minimum lot size for an accessory
6 dwelling unit that is larger than the minimum lot size required by
7 the political subdivision for a single-family home or duplex, as
8 applicable, in a lot zoned for that purpose;

9 (6) requires side or rear building, waterway, plane,
10 or other setbacks larger than five feet for an accessory dwelling
11 unit;

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

16 (8) applies the political subdivision's local growth
17 restrictions or density or bulk limitations to an accessory
18 dwelling unit;

19 (9) provides limitations on the square footage of an
20 accessory dwelling unit, except that the political subdivision may
21 prohibit the accessory dwelling unit from being larger than the
22 primary dwelling unit if the limitation does not require the
23 accessory dwelling unit to be smaller than 1,100 square feet;

24 (10) regulates the design of an accessory dwelling
25 unit, including the shape, size, massing, or distribution of square
26 footage between floors;

27 (11) charges an impact fee:

1 (A) in any amount for an accessory dwelling unit
2 that is less than 750 square feet; or

3 (B) that conflicts with Chapter 395;

4 (12) charges any additional fee or any exaction,
5 including a parkland or right-of-way dedication, specific to
6 accessory dwelling units;

7 (13) imposes any restriction of accessory dwelling
8 unit occupancy on the basis of age or employment relationship with
9 the primary dwelling unit owner;

10 (14) prohibits an owner of a lot that is at least
11 10,000 square feet that is described by Section 247.001(1) from
12 building two accessory dwelling units before, after, or
13 concurrently with the primary dwelling unit; or

14 (15) prohibits the construction of accessory dwelling
15 units consistent with this chapter under otherwise applicable open
16 space or permeable surface restrictions.

17 (b) Subsection (a)(4) does not limit a political
18 subdivision's authority to require the replacement of parking
19 required for the primary dwelling unit if the accessory dwelling
20 unit construction eliminates the primary dwelling unit's existing
21 parking.

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

1 (b) A political subdivision may publish accessory dwelling
2 unit plans, building codes, and design standards that are permitted
3 in the political subdivision. Subject to Section 247.002, standards
4 may include height, setback, landscape, aesthetics standards, and
5 maximum size of an accessory dwelling unit.

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

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

11 (2) is located in an area used to implement a water
12 conservation plan described by Section 11.1271 or 13.146, Water
13 Code; or

14 (3) is located in an area subject to a standard imposed
15 by the Texas Water Development Board as described by Section
16 3000.002(c), Government Code.

17 Sec. 247.004. PERMIT APPROVAL REQUIREMENTS. (a) A
18 political subdivision that requires a permit to construct an
19 accessory dwelling unit shall:

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

22 (2) consider only whether the application satisfies
23 the applicable building codes, design standards, and fire codes;
24 and

25 (3) approve or deny the application not later than the
26 60th day after the date the political subdivision receives the
27 completed application.

1 (b) A permit application described by Subsection (a) is
2 considered approved if the political subdivision to which the
3 application is submitted does not approve or deny the application
4 on or before the 60th day after the date the political subdivision
5 receives the application.

6 Sec. 247.005. APPLICABILITY TO OTHER RESTRICTIONS AND
7 RULES. This chapter does not limit the applicability of a historic
8 preservation rule, deed restriction, or homeowners association
9 rule that limits or prohibits the construction of an accessory
10 dwelling unit.

11 Sec. 247.006. ENFORCEMENT. (a) A person may submit a
12 complaint to the attorney general of a suspected violation of this
13 chapter.

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

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