

1-1 By: Hughes S.B. No. 1412
 1-2 (In the Senate - Filed March 1, 2023; March 16, 2023, read
 1-3 first time and referred to Committee on Local Government;
 1-4 April 24, 2023, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 8, Nays 0; April 24, 2023,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-8 | | | | |
| 1-9 | X | | | |
| 1-10 | X | | | |
| 1-11 | X | | | |
| 1-12 | | | X | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1412 By: Springer

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to regulation of accessory dwelling units by political
 1-22 subdivisions.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle C, Title 7, Local Government Code, is
 1-25 amended by adding Chapter 247 to read as follows:

1-26 CHAPTER 247. REGULATION OF ACCESSORY DWELLING UNITS BY POLITICAL
 1-27 SUBDIVISIONS

1-28 Sec. 247.001. DEFINITION. In this chapter, "accessory
 1-29 dwelling unit" means a residential housing unit that is:

1-30 (1) located on any lot that is not zoned or is zoned
 1-31 for a single-family home or duplex;

1-32 (2) independent of the attached or detached primary
 1-33 dwelling unit; and

1-34 (3) a complete and independent living facility for at
 1-35 least one individual.

1-36 Sec. 247.002. CERTAIN REGULATIONS PROHIBITED. (a) A
 1-37 political subdivision may not adopt or enforce an order, ordinance,
 1-38 or other measure that:

1-39 (1) prohibits an owner of a lot described by Section
 1-40 247.001(1) from building an accessory dwelling unit before, after,
 1-41 or concurrently with the building of the primary dwelling unit on
 1-42 the lot;

1-43 (2) prohibits the owner from entering into a
 1-44 residential lease for an accessory dwelling unit;

1-45 (3) requires any owner occupancy of the primary
 1-46 dwelling unit;

1-47 (4) requires parking for an accessory dwelling unit on
 1-48 a lot that:

1-49 (A) was platted before 1965;

1-50 (B) is less than 7,000 square feet; or

1-51 (C) is located within 1,320 feet of a public
 1-52 transit line;

1-53 (5) requires a minimum lot size for an accessory
 1-54 dwelling unit that is larger than the minimum lot size required by
 1-55 the political subdivision for:

1-56 (A) a single-family home or duplex, as
 1-57 applicable, in a lot zoned for that purpose; or

1-58 (B) an accessory dwelling unit on September 1,
 1-59 2023, if the political subdivision only required a property owner
 1-60 to provide notice to the political subdivision of the proposed unit

2-1 to be authorized to build the unit;
 2-2 (6) requires side or rear building, waterway, plane,
 2-3 or other setbacks larger than five feet for an accessory dwelling
 2-4 unit;
 2-5 (7) prevents an owner of a lot zoned for a
 2-6 single-family home or duplex from converting an existing structure
 2-7 to an accessory dwelling unit by requiring setbacks larger than the
 2-8 current structure's setbacks;
 2-9 (8) applies the political subdivision's local growth
 2-10 restrictions or density or bulk limitations to an accessory
 2-11 dwelling unit;
 2-12 (9) provides a limitation on the square footage of an
 2-13 accessory dwelling unit that is less than:
 2-14 (A) 50 percent of the square footage of the
 2-15 primary dwelling unit; or
 2-16 (B) 800 square feet;
 2-17 (10) regulates the design of an accessory dwelling
 2-18 unit, including the shape, size, massing, or distribution of square
 2-19 footage between floors;
 2-20 (11) requires the height of an accessory dwelling unit
 2-21 to be less than 14 feet, measured from floor to ceiling;
 2-22 (12) charges an impact fee unless the accessory
 2-23 dwelling unit requires:
 2-24 (A) an increase in the size of the meter or
 2-25 connection to serve the primary dwelling unit; or
 2-26 (B) a new meter or connection for the accessory
 2-27 dwelling unit;
 2-28 (13) charges any additional fee or any exaction,
 2-29 including a parkland or right-of-way dedication;
 2-30 (14) imposes any restriction of accessory dwelling
 2-31 unit occupancy on the basis of age or employment relationship with
 2-32 the primary dwelling unit owner;
 2-33 (15) prohibits the construction of accessory dwelling
 2-34 units consistent with this chapter under otherwise applicable open
 2-35 space or permeable surface restrictions;
 2-36 (16) prohibits construction of an accessory dwelling
 2-37 unit in accordance with the current residential building code
 2-38 adopted by this state or a housing regulatory authority of this
 2-39 state; or
 2-40 (17) prohibits an accessory dwelling unit based on its
 2-41 orientation on the lot with respect to the primary dwelling unit if
 2-42 space allows for that orientation.
 2-43 (b) Subsection (a)(4) does not limit a political
 2-44 subdivision's authority to require the replacement of parking
 2-45 required for the primary dwelling unit if the accessory dwelling
 2-46 unit construction eliminates the primary dwelling unit's existing
 2-47 parking.
 2-48 Sec. 247.003. AUTHORIZED REGULATION. (a) Except as
 2-49 provided by this chapter, a political subdivision's height
 2-50 limitations, front setback limitations, site plan review, and other
 2-51 zoning requirements that are generally applicable to residential
 2-52 construction for the area in which an accessory dwelling unit is
 2-53 built apply to the accessory dwelling unit.
 2-54 (b) A political subdivision may publish accessory dwelling
 2-55 unit plans, building codes, and design standards that are permitted
 2-56 in the political subdivision. Subject to Section 247.002, standards
 2-57 may include height, setback, landscape, and maximum size of an
 2-58 accessory dwelling unit.
 2-59 (c) A political subdivision may authorize an accessory
 2-60 dwelling unit on a lot that:
 2-61 (1) contains a structure subject to a historic
 2-62 preservation law, subject to a political subdivision's authority to
 2-63 regulate under other law, including Section 211.003;
 2-64 (2) is located in an area used to implement a water
 2-65 conservation plan described by Section 11.1271 or 13.146, Water
 2-66 Code; or
 2-67 (3) is located in an area subject to a standard imposed
 2-68 by the Texas Water Development Board as described by Section
 2-69 3000.002(c), Government Code.

3-1 (d) A political subdivision may apply the political
3-2 subdivision's regulations on short-term rental units to an
3-3 accessory dwelling unit.

3-4 (e) A political subdivision may prohibit the sale of an
3-5 accessory dwelling unit separately from the primary dwelling unit
3-6 unless:

3-7 (1) the accessory dwelling unit is located on a
3-8 separate lot from the primary dwelling unit; or

3-9 (2) the accessory dwelling unit and the primary
3-10 dwelling unit are separate condominium units under Chapter 82,
3-11 Property Code.

3-12 (f) A political subdivision may apply the political
3-13 subdivision's parking regulations that are not prohibited under
3-14 Section 247.002(a)(4) to an accessory dwelling unit if the
3-15 regulations do not:

3-16 (1) require more than one parking space for each
3-17 accessory dwelling unit; and

3-18 (2) regulate the placement or adequacy of parking.

3-19 Sec. 247.004. PERMIT APPROVAL REQUIREMENTS. (a) A
3-20 political subdivision that requires a permit to construct an
3-21 accessory dwelling unit shall:

3-22 (1) process the application for the permit
3-23 ministerially without discretionary review or a hearing;

3-24 (2) consider only whether the application satisfies
3-25 the applicable building codes, design standards, and fire codes;
3-26 and

3-27 (3) approve or deny the application not later than the
3-28 60th day after the date the applicant submits the completed
3-29 application.

3-30 (b) A permit application described by Subsection (a) is
3-31 considered approved if the political subdivision to which the
3-32 application is submitted does not approve or deny the application
3-33 on or before the 60th day after the date the applicant submits the
3-34 application.

3-35 Sec. 247.005. EFFECT ON OTHER RESTRICTIONS AND RULES. This
3-36 chapter does not supersede, preempt, or apply to a historic
3-37 preservation rule, deed restriction, or homeowners association
3-38 rule that limits or prohibits the construction of an accessory
3-39 dwelling unit.

3-40 Sec. 247.006. PROPERTY OWNER ACTION. (a) A property owner
3-41 may bring an action against a political subdivision that violates
3-42 this chapter for damages resulting from the violation and
3-43 appropriate equitable relief.

3-44 (b) A court may award a prevailing claimant reasonable
3-45 attorney's fees and costs incurred in bringing an action under this
3-46 section. The claimant may not recover exemplary damages in the
3-47 action.

3-48 (c) Governmental immunity of a political subdivision to
3-49 suit and from liability is waived to the extent of liability created
3-50 by this section.

3-51 SECTION 2. This Act takes effect immediately if it receives
3-52 a vote of two-thirds of all the members elected to each house, as
3-53 provided by Section 39, Article III, Texas Constitution. If this
3-54 Act does not receive the vote necessary for immediate effect, this
3-55 Act takes effect September 1, 2023.

3-56 * * * * *