

BILL ANALYSIS

C.S.H.B. 5187
By: Patterson
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The bill author has informed the committee that since the COVID-19 pandemic, office buildings in major urban centers have become underutilized, with vacancy rates nearing 25 percent in cities like Dallas, Houston, and Austin. The bill author has also informed the committee that while Texans face rising housing costs and limited options near job centers, converting vacant offices to housing requires property owners and developers to navigate a maze of zoning changes, legal reviews, and delays--each adding thousands of dollars--that increase uncertainty and financial risk. The bill author has further informed the committee that, as a result, many viable projects are abandoned--not due to lack of demand, but because the red tape makes them financially unworkable. C.S.H.B. 5187 seeks to address this issue by removing unnecessary regulatory barriers to office-to-residential conversions in certain municipalities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 5187 amends the Local Government Code to provide for the regulation by certain municipalities of the conversion of certain office buildings to mixed-use and multifamily residential occupancy, applicable to a municipality with a population greater than 150,000 that is wholly or partly located in a county with a population greater than 300,000.

Fees and Regulations

C.S.H.B. 5187 prohibits a municipality from requiring the following in connection with the use, development, construction, or occupancy of a building proposed to be converted to mixed-use residential or multifamily residential use:

- the preparation of a traffic impact analysis or other study relating to the effect the proposed converted building would have on traffic or traffic operations;
- the construction of improvements or payment of a fee in connection with mitigating traffic effects related to the proposed converted building;
- the provision of additional parking spaces, other than the parking spaces that already exist on the site of the proposed converted building;
- the extension, upgrade, replacement, or oversizing of a utility facility except as necessary to provide the minimum capacity needed to serve the proposed converted building;

- a limit on density applicable to the site of the proposed converted building that is more restrictive than the greater of:
 - the highest residential density allowed in the municipality; or
 - 36 units per acre;
- a building proposed to be converted to multifamily residential occupancy not located in an area zoned for mixed-use residential use to include nonresidential uses;
- a design requirement, including a requirement related to the exterior, windows, internal environment of a building, or interior space dimensions of an apartment, that is more restrictive than the applicable minimum standard under the International Building Code as adopted as a municipal commercial building code;
- the change of a zoning district or land use classification or regulation or an approval of an amendment, exception, or variance to a zoning district or land use classification or regulation prior to allowing conversion of a building to mixed-use residential use or multifamily residential use;
- a floor-to-area ratio that is less than the greater of the following:
 - 120 percent of the existing floor-to-area ratio of the building, if the proposed conversion does not increase the existing height or site coverage of the building; or
 - the highest floor-to-area ratio allowed for a building on the site;
- a limit on impervious cover or site coverage that is less than the existing impervious cover or site coverage of the building or site; or
- an additional drainage, detention, or water quality requirement, if the proposed conversion does not increase the amount of impervious cover on the building site.

The bill specifies for these purposes that an amendment, exception, or variance to a zoning district or land use classification or regulation includes a special exception, zoning variance, site development variance, subdivision variance, conditional use approval, special use permit, comprehensive plan amendment, or other discretionary approval to allow conversion of a building to mixed-use residential use or multifamily residential use.

C.S.H.B. 5187 prohibits a municipality from imposing an impact fee, defined by reference to statutory provisions relating to financing capital improvements required by new development in municipalities, counties, and certain other local governments, on land where a building has been converted to mixed-use residential or multifamily residential use unless the land was already subject to such a fee before a building permit related to the conversion was filed with the municipality. The bill requires a municipal authority responsible for approving a building permit or other authorization required for such a building conversion that determines that a proposed conversion meets municipal regulations in accordance with these provisions to administratively approve the permit or other authorization. The bill prohibits such an authority from requiring further action by the governing body of the municipality for the approval to take effect.

C.S.H.B. 5187 makes these provisions applicable only to a building or the structural components of a building that is being used primarily for office use, is proposed to be converted from primarily office use to mixed-use residential or multifamily residential occupancy for at least 65 percent of the building and at least 65 percent of each floor of the building that is fit for occupancy, and was constructed at least five years before the proposed date to start the conversion. The bill expressly does not apply to a building proposed to be converted to mixed-use residential or multifamily residential use that is located as follows:

- in an area subject to a zoning classification that allows heavy industrial use; or
- within the following:
 - 1,000 feet of an existing heavy industrial use or development site;
 - 3,000 feet of an airport or military base; or
 - 15,000 feet of the boundary of a military base if the area is designated by a municipality or joint airport zoning board, as applicable, as a clear zone or accident potential zone supporting military aviation operations.

Enforcement

C.S.H.B. 5187 authorizes a housing organization or other person adversely affected or aggrieved by a violation of the bill's provisions to bring an action for declaratory or injunctive relief against a municipality. The bill defines "housing organization" as a trade or industry group organized under state law consisting of local members primarily engaged in the construction or management of housing units, a nonprofit organization organized under state law that provides or advocates for increased access or reduced barriers to housing and has filed written or oral comments with the legislature, or a nonprofit organization that is engaged in public policy research, education, and outreach that includes housing policy-related issues and advocacy.

C.S.H.B. 5187 requires a court to award reasonable attorney's fees and court costs to a prevailing claimant in an action brought under these provisions. The bill requires such an action to be brought in a county in which all or part of the real property that is the subject of the action is located. The bill establishes that the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over those actions.

Effects on Other Restrictions and Rules

C.S.H.B. 5187 expressly does not limit the following:

- a municipality from adopting or enforcing an ordinance, regulation, or other measure:
 - to protect historic landmarks or include properties within the boundaries of local historic districts; or
 - related to the use and occupancy of a residential property that is rented for a period not longer than 30 consecutive days; or
- a property owner from enforcing rules or deed restrictions imposed by a property owners' association or by other private agreement.

Definitions

C.S.H.B. 5187 defines the following terms for purposes of its provisions:

- "heavy industrial use" as a storage, processing, or manufacturing use with processes using flammable or explosive materials, with hazardous conditions, or that is noxious or offensive from odors, smoke, noise, fumes, or vibrations;
- "mixed-use residential," when used to describe land use or development, as the use or development, as applicable, of a site consisting of residential and nonresidential uses in which the residential uses are at least 65 percent of the total square footage of the development, including the use or development of a condominium;
- "multifamily residential," when used to describe land use or development, as the use or development, as applicable, of a site for three or more dwelling units within one or more buildings, including the use or development of a residential condominium; and
- "permit" by reference to statutory provisions governing the issuance of local permits.

Procedural Provision

C.S.H.B. 5187 applies only to a building proposed to be converted to mixed-use residential or multifamily residential use in which a building permit was submitted to a municipality on or after the bill's effective date.

EFFECTIVE DATE

September 1, 2025.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 5187 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the introduced applied only to a municipality with a population greater than 90,000 that is wholly or partly located in a county with a population greater than 300,000 and to a county with a population greater than 300,000, the substitute applies only to a municipality with a population greater than 150,000 that is wholly or partly located in a county with a population greater than 300,000.

The substitute omits the provisions from the introduced that did the following:

- prohibited a municipality or county from doing the following:
 - charging a fee in connection with the submission, review, or approval of an application for a permit related to the use, development, or construction of a building proposed to be converted to mixed-use residential or multifamily residential use, including any fee for the following:
 - acquiring a building permit;
 - the closure of a street or sidewalk adjacent to the proposed converted building; or
 - an expedited permit review for the proposed converted building if the municipality or county has adopted an accelerated residential building permit review process; and
 - requiring the dedication of parkland or imposing a parkland dedication fee in connection with a building proposed to be converted to mixed-use residential or multifamily residential use; and
- defined "parkland," "parkland dedication," and "parkland dedication fee" by reference to certain Local Government Code provisions.

With respect to the bill's prohibition against a municipality establishing certain requirements in connection with the use, development, construction, or occupancy of a building proposed to be converted to mixed-use residential or multifamily residential use, the substitute prohibits the following requirements, which the introduced did not do:

- a floor-to-area ratio that is less than the greater of the following:
 - 120 percent of the existing floor-to-area ratio of the building, if the proposed conversion does not increase the existing height or site coverage of the building;
 - or
 - the highest floor-to-area ratio allowed for a building on the site;
- a limit on impervious cover or site coverage that is less than the existing impervious cover or site coverage of the building or site; and
- an additional drainage, detention, or water quality requirement, if the proposed conversion does not increase the amount of impervious cover on the building site.

Whereas the introduced established that the bill's provisions expressly do not apply to a building proposed to be converted to mixed-use residential or multifamily residential use that is located in an area subject to a zoning classification that allows heavy industrial use or within 1,000 feet of an existing heavy industrial use or development site, airport, or military base, the substitute instead establishes that the bill's provisions expressly do not apply to such a building located as follows:

- in an area subject to a zoning classification that allows heavy industrial use; or
- within the following:
 - 1,000 feet of an existing heavy industrial use or development site;
 - 3,000 feet of an airport or military base; or

- 15,000 feet of the boundary of a military base if the area is designated by a municipality or joint airport zoning board, as applicable, as a clear zone or accident potential zone supporting military aviation operations.

The substitute omits the provisions from the introduced that did the following:

- authorized a person adversely affected or aggrieved by a violation of the introduced version's provisions relating to fees and regulations to bring an action for economic damages or declaratory or injunctive relief against a municipality or county or an officer of a municipality or county in the officer's official capacity; and
- authorized a housing organization to bring an action for declaratory or injunctive relief against a municipality or county or an officer of a municipality or county in the officer's official capacity for such a violation.

Instead, the substitute authorizes a housing organization or other person adversely affected or aggrieved by a violation of the bill's provisions to bring an action for declaratory or injunctive relief against a municipality. Additionally, the introduced entitled a claimant who prevails in those actions to recover court costs and reasonable attorney's fees, whereas the substitute requires a court to award reasonable attorney's fees and court costs to a prevailing claimant in such an action.

The substitute omits the provisions of the introduced that did the following:

- waived governmental immunity of a municipality or county to suit and from liability and official immunity of a municipal or county officer or employee to the extent of liability created by the bill's provisions regarding such actions;
- authorized a person to submit a complaint to the attorney general of a suspected violation of the introduced version's provisions relating to fees and regulations;
- prohibited a municipality or county, if the attorney general determines that such a violation occurred, from adopting a property tax that exceeds the municipality's or county's no-new-revenue tax rate for the three tax years that begin on or after the date of the determination; and
- defined "no-new-revenue tax rate" by reference to the no-new-revenue tax rate calculated under the Tax Code.