

## BILL ANALYSIS

Senate Research Center  
89R17820 SCL-F

C.S.S.B. 854  
By: Middleton  
Local Government  
3/13/2025  
Committee Report (Substituted)

### AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas faces a severe housing shortage, with a gap of over 300,000<sup>[1]</sup> homes needed to meet current demand. At the same time, many religious institutions are experiencing declining membership and financial strain, leading to underutilized or vacant properties. Faith-based organizations across the state have expressed a desire to develop affordable housing on their land to support their communities and generate sustainable revenue. Churches and other faith-based organizations own large amounts of underutilized land, such as parking and vacant lots, that could be repurposed to provide additional housing. A 2023 Pew survey found that 79 percent of Texans support policies that allow for more housing development on church land<sup>[2]</sup>; however, restrictive zoning laws and municipal regulations often prevent them from doing so or make such developments too costly.

S.B. 854 empowers religious organizations to develop multifamily and mixed-use housing on their land by right. This bill prohibits municipalities from imposing excessive zoning restrictions or requiring special approvals that create unnecessary barriers to development. It allows churches and other faith-based organizations to utilize their property for housing solutions that address Texas' affordability crisis while maintaining their mission to serve the community. More specifically, the bill does the following:

- Allows religious organizations to build housing and mix-used developments on their land without needing zoning changes, special use permits, or other restrictive approvals.
- Prohibits municipalities from enforcing height limits below 40 feet (three stories), excessive setback requirements, and restrictive parking mandates.
- Requires municipalities to approve compliant developments as a ministerial duty, reducing delays and unnecessary bureaucratic hurdles.
- Grants faith-based organizations legal recourse if municipalities violate the provisions of the bill, including injunctive relief and damages for economic losses.

S.B. 854 could unlock thousands of acres of underutilized land for housing development, increasing supply and affordability and provides faith-based organizations with opportunities to sustain their missions financially while serving their communities.

Committee Substitute

Key Differences:

- Mixed-use Development:
  - S.B. 854: Required at least 65 percent residential use.
  - Substitute: Lowers this to 50 percent residential use and adds a new condition:
    - Nonresidential uses must further the religious organization's mission.
- Multifamily Development:
  - S.B. 854: Covered three or more dwelling units.
  - Substitute: Expands definition to explicitly include condominiums.

2. Applicability (Section 212.252)

Key Differences:

- Both versions exempt religious land within a quarter-mile of a heavy industrial site, airport, seaport, or military base.

- No major changes, ensuring housing developments do not conflict with high-impact land uses.

### 3. Allowable Uses (Section 212.253)

#### Key Differences:

- No major substantive changes.
- Both versions prohibit cities from requiring special zoning changes, variances, or land-use approvals.
- The committee substitute adds clarity by reinforcing that local governments must permit multifamily and mixed-use development by right.

### 4. Prohibited Municipal Regulations (Section 212.254)

#### Key Differences:

- Height Restrictions:
  - S.B. 854: Cities could not limit height below 40 feet or three stories.
  - Substitute: Same restriction, but explicitly allows historic design standards under Section 211.003(b) of the Local Government Code.
- Setback Requirements:
  - S.B. 854: Limited front setbacks to 15 feet, rear setbacks to 10 feet, and side setbacks to 5 feet.
  - Substitute: Maintains these limits but allows flexibility for historic preservation standards.
- Parking Requirements:
  - Both versions prohibit cities from imposing excessive parking mandates, unless required by federal law.
- Conversion of Existing Buildings:
  - S.B. 854: Did not address conversion of existing buildings.
  - Substitute: adds new protections:
    - Cities cannot impose stricter height limits, setbacks, or parking requirements on a building that is being converted into housing.
    - Cities cannot require excessive upgrades to meet new building codes unless related to historic design standards.

### 5. Permitted Municipal Regulations (Section 212.255)

#### Key Differences:

- Both versions allow cities to enforce:
  - Sewer and water access requirements.
  - Stormwater mitigation rules.
  - Building codes (except where restricted by the bill).
- Substitute adds:
  - Cities can regulate short-term rentals (Airbnb, Vrbo, etc.).
  - Cities can impose historic preservation measures on designated landmarks or districts.

### 6. New Section on Homeowners' Associations and Private Agreements (Section 212.256)

#### Key Differences:

- New in committee substitute (not present in S.B. 854):
  - Religious housing developments must comply with HOA rules and private deed restrictions.

### 7. Duty to Approve (Section 212.257)

#### Key Differences:

- Substitute clarifies that municipal approval is purely "ministerial."
  - Cities must approve applications that meet legal requirements.
  - They cannot delay or deny approval based on discretionary factors.

### 8. Legal Recourse for Violations (Section 212.258)

#### Key Differences:

- Both versions allow lawsuits against cities that violate the law.
- Substitute adds:

- Courts must award damages to claimants who suffer economic harm.
- Attorney's fees and court costs are also reimbursed to the winning party.
- The Fifteenth Court of Appeals gets exclusive jurisdiction over appeals.

<sup>[1]</sup> Texas Comptroller of Public Accounts. The Housing Affordability Challenge, 2024, <https://comptroller.texas.gov/about/media-center/news/20240827-texas-comptroller-glenn-hegar-releases-study-on-states-housing-affordability-challenge-1724699586337>.

<sup>[2]</sup> Pew Charitable Trusts. Survey Finds Large Majorities Favor Policies to Enable More Housing, 2023, <https://www.pewtrusts.org/en/research-and-analysis/articles/2023/11/30/survey-finds-large-majorities-favor-policies-to-enable-more-housing>.

C.S.S.B. 854 amends current law relating to municipal regulation of multifamily and mixed-use development on religious land.

## **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

## **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 212, Local Government Code, by adding Subchapter I, as follows:

### **SUBCHAPTER I. REGULATION OF DEVELOPMENT ON RELIGIOUS LAND**

Sec. 212.251. DEFINITIONS. Defines "heavy industrial use," "housing organization," "mixed-use," "multifamily," "religious land," and "religious organization."

Sec. 212.252. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter does not apply to religious land located within a quarter mile of a heavy industrial use, an airport, a seaport, or a military base.

Sec. 212.253. ALLOWABLE USES. (a) Requires a municipality to permit multifamily and mixed-use as allowable uses on religious land.

(b) Prohibits a municipality, notwithstanding any other law, from requiring a proposed multifamily or mixed-use development on religious land to obtain a zoning or land use change, special exception, variance, conditional use approval, special use permit, comprehensive plan amendment, or other land use classification or approval to permit the proposed use and development; or allow for the minimum densities, building height, setbacks, and site development regulations authorized under this subchapter.

Sec. 212.254. PROHIBITED MUNICIPAL REQUIREMENTS. Prohibits a municipality, notwithstanding any other law, for a multifamily or mixed-use development on religious land, from:

(1) restricting the height of a proposed development to less than 40 feet and three full stories;

(2) requiring front setbacks greater than 15 feet, rear setbacks greater than 10 feet, or side setbacks greater than 5 feet unless modified by historic design standards as authorized under Section 211.003(b) (relating to authorizing the governing body of a municipality in the case of certain historically significant places to enact certain regulations);

(3) establishing minimum parking requirements except as necessary to comply with federal law;

(4) restricting the ratio of the development's proposed building gross floor area to site area, building coverage, density, unit size or number base as compared to site area, size of a unit, or otherwise restrict development using any other dimensional constraint except as provided by Subdivisions (1) and (2); or

(5) for a proposed development converting an existing building from a different use to a multifamily or mixed-use:

(A) requiring the conversion to exceed standards imposed by the International Building Code, unless the standards are in accordance with historic design standards as authorized under Section 211.003(b);

(B) applying height restrictions more restrictive than the structure's existing height;

(C) requiring setbacks for the structure more restrictive than the structure's existing setbacks; or

(D) requiring parking that exceeds the existing parking for the structure.

Sec. 212.255. PERMITTED MUNICIPAL REGULATION. Provides that this subchapter does not affect a municipality's authority to apply the following that are generally applicable to other developments in the municipality: sewer and water access requirements; stormwater mitigation requirements; except as otherwise provided by this subchapter, building codes; regulations related to short-term rentals; and regulations related to historic preservation, including protecting historic landmarks or property in the boundaries of a local historic district.

Sec. 212.256. NO EFFECT ON HOMEOWNERS' ASSOCIATIONS AND OTHER PRIVATE AGREEMENTS. Provides that this subchapter does not prohibit property owners from enforcing rules or deed restrictions imposed by a homeowners' association or by other private agreement.

Sec. 212.257. DUTY TO APPROVE. (a) Requires a municipality, notwithstanding any other law, to approve an application for a multifamily or mixed-use development on religious land if the development satisfies the municipality's land development regulations for multifamily or mixed-use developments, as applicable, other than a regulation involving a matter described by Section 212.254.

(b) Provides that the municipality's duty to approve a development under Subsection (a) is purely ministerial.

Sec. 212.258. ACTION. (a) Authorizes a person affected by a municipality's violation of this subchapter or a housing organization to bring an action against the municipality or an officer or employee of the municipality in the officer's or employee's official capacity for relief described by Subsection (c).

(b) Requires a claimant to bring an action under this section in a county in which the real property that is the subject of the action is wholly or partly located.

(c) Authorizes a court, in an action brought under this section, to:

(1) enter a declaratory judgment under Chapter 37 (Declaratory Judgments), Civil Practice and Remedies Code;

(2) issue a writ of mandamus compelling a defendant officer or employee to comply with this subchapter;

(3) issue an injunction preventing the defendant from violating this subchapter; and

(4) award damages to the claimant for economic losses caused by the defendant's violation of this subchapter if the claimant is a person affected or aggrieved by the violation that is the basis for the action.

(d) Requires a court to award reasonable attorney's fees and court costs incurred in bringing an action under this section to a prevailing claimant.

(e) Provides that governmental immunity of a municipality to suit and from liability is waived to the extent of liability created by this section. Provides that official immunity of a municipal officer or employee is waived to the extent of liability created by this section.

(f) Provides that the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over an appeal or original proceeding arising from an action brought under this section.

SECTION 2. Effective date: September 1, 2025.