

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 395
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International Relations and Trade
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Committee Report (Substituted)

DIGEST AND PURPOSE

Current Texas law does not allow the commissioners court of a county to regulate residential land development in the unincorporated area of the county through the adoption of codes to promote safety in residential construction. C.S.S.B. 395 authorizes but does not require the commissioners court of a county that borders Mexico and has a population of 650,000 or more to adopt certain building codes and standards for residences constructed in the unincorporated areas of the county. Provides a penalty for noncompliance, but prohibits a penalty from being assessed against a low-income household except in certain circumstances.

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 Title 7B, Local Government Code, by adding Chapter 236, as follows:

CHAPTER 236. REGULATION OF LAND DEVELOPMENT IN CERTAIN COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 236.001. DEFINITIONS. Defines “International Residential Code,” “National Electrical Code,” and “residential.”

Sec. 236.002. APPLICABILITY. Provides that this chapter is applicable only to a county that has a population of 650,000 or more and includes territory located within 50 miles of an international border.

[Reserves Sections 236.003-236.050 for expansion.]

SUBCHAPTER B. REGULATORY AUTHORITY

Sec. 236.051. REGULATORY AUTHORITY. (a) Authorizes the commissioners court of the county to regulate, by order, residential land development in the unincorporated area of the county to prevent the proliferation of colonias by adopting certain regulations and building codes.

(b) Prohibits the commissioners court from regulating, under authority granted by this section, land development on a tract of land appraised as agricultural or open space land by the appraisal district.

(c) Provides that the authority granted under this section does not authorize the commissioners court to adopt an order regulating commercial property that is

uninhabitable.

Sec. 236.052. RESIDENTIAL BUILDING CODE. (a) Requires the commissioners court to take certain actions if the commissioners court adopts a residential building code.

(b) Requires the commissioners court to establish procedures to administer and enforce the International Residential Code, excluding Part VII, and the National Electrical Code, if adopted.

(c) Requires the commissioners court to review and consider certain amendments made by the International Code Council to the International Residential Code or amendments made by the National Fire Protection Association to the National Electrical Code, and authorizes the commissioners court to adopt such amendments, after May 1, 2003.

Sec. 236.053. INSPECTIONS OF RESIDENTIAL STRUCTURES. Requires an inspection of a residential structure in the unincorporated area of the county to be conducted by a person who meets certain qualifications.

Sec. 236.054. BUILDING PERMITS. (a) Requires a county to issue a building permit if the person submitting the application for the permit satisfies certain requirements.

(b) Authorizes the county to charge a reasonable building permit fee.

(c) Requires the county to deposit a fee collected under this section in an account in the general fund of the county dedicated to the building permit program. Authorizes the funds in the account to be used only for the purpose of administering the building permit program.

Sec. 236.055. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. Provides that a municipal ordinance prevails over an order adopted under this subchapter within the municipality's jurisdiction to the extent of the conflict, if an order adopted under this subchapter conflicts with an ordinance of a municipality.

Sec. 236.056. EXISTING COUNTY AUTHORITY UNAFFECTED. Provides that the authority granted by this subchapter does not affect the authority of the commissioners court to adopt an order or ordinance under other law.

[Reserves Sections 236.057-236.100 for expansion.]

SUBCHAPTER C. ENFORCEMENT

Sec. 236.101. REQUIREMENTS FOR ORDERS. Requires an order adopted under this chapter to provide a person at least 30 days after the date of adoption of the order to comply with or cure the violation.

Sec. 236.102. INJUNCTION. Entitles the county, in a suit brought by the county attorney or other prosecuting attorney in the district court, to appropriate injunctive relief to prevent the violation or threatened violation of an order adopted under this chapter from continuing or occurring.

Sec. 236.103. PENALTY; EXCEPTION. (a) Provides that a person commits an offense if the person violates a restriction or prohibition imposed by an order adopted under this chapter. Provides that an offense under this chapter is a Class C misdemeanor.

(b) Prohibits a penalty from being assessed under this section against the owner-occupant of the residential dwelling for a building standards or building code violation relating to the dwelling if the Texas Department of Housing and Community Affairs classifies the household as a low-income household, unless the county makes available to the owner-occupant housing rehabilitation assistance in an amount sufficient to cure the violation. Requires the assistance provided to be a grant or loan and be on payment terms that do not cause the housing expenses of the owner-occupant to exceed 30 percent of the owner-occupant's net income.

SECTION 2. Effective date: upon passage or September 1, 2003.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Sec. 236.001. Differs from the original by adding to the definition of "International Residential Code" text excluding Part VII, International Residential Code, and by adding the definition of "National Electrical Code."

Sec. 236.052. Differs from the original by excluding Part VII, International Residential Code, from the provisions a commissioners court is required to adopt in some circumstances, and by including the National Electrical Code in those requirements.

Sec. 236.101. Differs from the original by including the section entitled "REQUIREMENTS FOR ORDERS."

Sections 236.102 and 236.103 are redesignated from the originally proposed Sections 236.101 and 236.102.

SECTION 2. Not different from the original.