

BILL ANALYSIS

Senate Research Center
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S.B. 2005
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Intergovernmental Relations
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 85th Legislative Interim, the Senate Committee on Intergovernmental Relations (IGR) was charged with studying housing affordability. One of the consequences the committee heard that developed over the years due to the lack of affordable housing, along with a lack of statutory structure in unincorporated areas along the border, has been the development of substandard dwellings, better known as colonias.

Concerned stakeholders contend that the border counties which have the most colonias in the nation—Cameron and Hidalgo Counties—lack the necessary ability to prevent the proliferation of substandard dwellings and dilapidated housing conditions.

Since the 1950s, when colonias first began to be created, areas outside of city limits—commonly referred to as free of regulation building areas—enabled unscrupulous developers to acquire inexpensive tracts of unproductive land (mostly flood-prone land, including formerly used farm land) to sell them to unsuspecting buyers for residential purposes.

Due to the lack of basic guided growth and building statutory structure for these two counties, colonias proliferated without any meaningful prevention in Cameron and Hidalgo Counties.

In order to address these concerns, Senate Bill 2005 provides these two fast growing counties with necessary, limited tools that will assist them in preventing the proliferation of substandard dwellings/colonias and to have better guided growth.

As proposed, S.B. 2005 amends current law relating to authorizing certain border counties and municipalities in those counties to address population growth and prevent the proliferation of substandard dwellings, creates a criminal offense, and authorizes a fee.

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 242, Local Government Code, by adding Subchapter B, as follows:

SUBCHAPTER B. DEVELOPMENT REGULATIONS IN CERTAIN BORDER COUNTIES AND MUNICIPALITIES LOCATED IN THOSE COUNTIES

Sec. 242.051. **APPLICABILITY.** Provides that this subchapter applies only to:

(1) a county with a population of more than 400,000 that is:

(A) located along an international border; and

(B) adjacent to another county with a population of more than 400,000; or

(2) a municipality located in that county if:

(A) the county does not exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter; and

(B) the county by resolution authorizes the municipality to exercise in the municipality's extraterritorial jurisdiction the authority described by this subchapter.

Sec. 242.052. REGULATORY AUTHORITY. (a) Authorizes the commissioners court of a county to which this subchapter applies to, by order, regulate residential land development in the unincorporated area of the county. Authorizes the governing body of a municipality to which this subchapter applies to, by ordinance, regulate residential land development in the municipality's extraterritorial jurisdiction. Authorizes the commissioners court or governing body, by this authority, to prevent the proliferation of colonias and other areas with substandard buildings by:

(1) adopting regulations relating to:

(A) maximum densities, including the size of lots;

(B) the height, number of stories, size, or number of buildings or other structures that may be located on a lot or tract;

(C) the location of buildings and other structures on a lot or tract; and

(D) the preparation of a plan for utility development, environmental effect and adaptation, utility extension, and capacity planning and providing financial analysis of the plan; and

(2) adopting building codes to promote safe and uniform building, plumbing, and electrical standards.

(b) Authorizes the commissioners court or governing body, if a tract of land is appraised as agricultural or open-space land by the appraisal district, to not regulate land development on that tract under the authority granted by Subsection (a)(1)(B) or (C) or (a)(2).

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

(d) Provides that the authority granted under this section does not authorize the commissioners court or governing body to adopt an order that limits or otherwise impairs the rights of individuals or entities in the exploration, development, or production of oil, gas, or other minerals.

Sec. 242.053. BUILDING PERMITS. (a) Requires the county or municipality, as appropriate, to issue a building permit if the person submitting the application for the permit:

(1) files information relating to the location of the residence;

(2) files the building plans for the residence; and

(3) complies with the applicable regulations relating to the issuance of the permit.

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

(c) Requires the county or municipality to deposit fees collected under this section in an account in its general fund and dedicate the fees 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. 242.054. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. Provides that if an order adopted by the county under this subchapter conflicts with an ordinance of a municipality, the municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict.

Sec. 242.055. EXISTING AUTHORITY UNAFFECTED. Provides that the authority granted by this subchapter does not affect the authority of the commissioners court or governing body to adopt an order or ordinance under other law.

Sec. 242.056. INJUNCTION. Entitles the county or municipality, in a suit brought by the appropriate attorney representing the county or municipality in the district court, to appropriate injunctive relief to prevent the violation or threatened violation of the entity's order or ordinance adopted under this subchapter from continuing or occurring.

Sec. 242.057. PENALTY; EXCEPTION. (a) Provides that a person commits an offense if the person violates a restriction or prohibition imposed by an order or ordinance adopted under this subchapter. Provides that an offense under this section is a Class C misdemeanor.

(b) Provides that it is an exception to the application of this section that:

(1) the person is an owner-occupant of a residential dwelling that is classified by the Texas Department of Housing and Community Affairs as a low-income household;

(2) the dwelling was constructed before the effective date of this subchapter;

(3) the violation related to a building standard or building code for that dwelling; and

(4) the county or municipality, as appropriate:

(A) did not make available to the person a grant or loan in an amount sufficient to cure the violation; or

(B) made available to the person a loan that was sufficient to cure the violation but that caused the housing expenses of the person to exceed 30 percent of the person's net income.

SECTION 2. Amends the heading to Chapter 242, Local Government Code, to read as follows:

CHAPTER 242. AUTHORITY OF MUNICIPALITY AND COUNTY TO REGULATE
SUBDIVISIONS AND PROPERTY DEVELOPMENT

SECTION 3. Amends Chapter 242, Local Government Code, by designating Sections 242.001, 242.0015, 242.002, and 242.003 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. AUTHORITY TO REGULATE SUBDIVISIONS IN AND
OUTSIDE MUNICIPALITY'S EXTRATERRITORIAL JURISDICTION

SECTION 4. Effective date: upon passage or September 1, 2019.