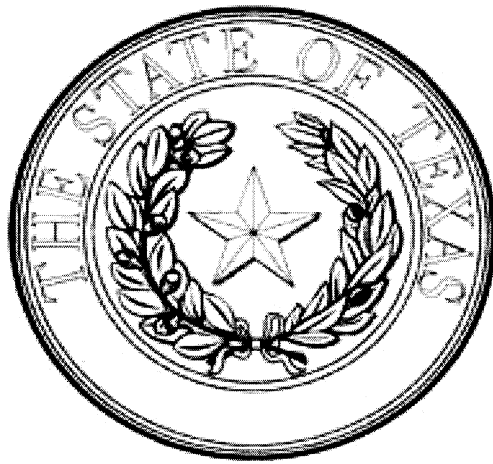


SENATE COMMITTEE ON
INTERGOVERNMENTAL RELATIONS



INTERIM REPORT TO THE
80TH TEXAS LEGISLATURE

December 2006

TEXAS SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

SENATOR ROYCE WEST
Chairman



SENATOR JON LINDSAY
Vice-Chairman
SENATOR ROBERT DEUELL
SENATOR MARIO GALLEGOS
SENATOR JEFF WENTWORTH

December 11, 2006

Honorable David Dewhurst
Lieutenant Governor
State of Texas
Room 2E.13, State Capitol
Austin, Texas

Dear Governor Dewhurst:

The Senate Committee on Intergovernmental Relations hereby submits its 79th interim report. The recommendations made herein are based on testimony offered at our three interim hearings, and by input provided by the public, committee members, professional trade association and other interest group representatives, state agencies and local governments.

The undersigned members of the committee believe this report contains recommendations which can be used by the legislature during its 80th regular session to successfully address the issues raised by the charges before the committee this interim.

Respectfully Submitted,

Handwritten signature of Senator Royce West.

Senator Royce West
Chairman

Senator Jon Lindsay
Vice-Chairman

Handwritten signature of Senator Bob Deuell.

Senator Bob Deuell

Handwritten signature of Senator Mario Gallegos.

Senator Mario Gallegos

Handwritten signature of Senator Jeff Wentworth.

Senator Jeff Wentworth

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MARIO GALLEGOS, JR.

December 1, 2006

The Honorable Royce West, Chairman
Senate Committee on Intergovernmental Relations
P. O. Box 12068
Austin, Texas 78711

Dear Chairman West:

I would like to state the following comments on the interim report of the Senate Committee on Intergovernmental Relations Charge #6: Study the implementation and impact of legislation passed by the 79th Legislature to increase the economic impact of the Texas Wine Industry on the state's economy and make recommendations, as appropriate.

There are a number of federal court cases, many of which directly relate to the wine industry, that have put the federal judiciary squarely in support of the federal government regulating interstate commerce. One case, *Granholm v. Michigan Beer and Wine Wholesalers Association*, the United States Supreme Court is on record supporting the lower courts' decisions prohibiting individual states from limiting or placing restrictions on interstate commerce. The idea behind the Texas Wine Marketing Assistance Program, as noble as the program may be, probably violates the United States Constitution and triggers the "Dormant Commerce Clause". This long-standing legal doctrine in U.S. Constitutional law limits the power of states to legislate interstate commerce. The federal courts have been consistent in its lack of tolerance for disparate treatment of out-of-state interests versus in-state. This program seems to be another instance in which the federal courts would likely strike down our provision of Texas law.

Although the Committee's recommendation on this charge is to monitor recent legislation expanding the Wine Industry in Texas, I strongly believe that we should also consider 1) the legislative limits placed on interstate commerce, and 2) be aware of the disparate treatment of out-of-state interests versus in-state. Should you wish to discuss this, please do not hesitate to contact my Capitol office.

Sincerely,

A handwritten signature in black ink that reads "Mario Gallegos, Jr." in a cursive script.

Mario Gallegos, Jr.
State Senator
District 6



Table of Contents

Charges and Recommendations

Charge One - County regulatory authority.	Page 1
Recommendations	Page 3
Charge Two - Use of red light camera revenue.	Page 4
Recommendations	Page 6
Charge Three - Special districts and cities.	Page 8
Recommendations	Page 11
Charge Four - Grants for counties.	Page 13
Recommendations	Page 14
Charge Five - Texas Uniform Planned Community Act.	Page 16
Recommendations	Page 17
Charge Six - Texas Wine Industry.	Page 21
Recommendations	Page 22
Charge Seven - Floodplains.	Page 24
Recommendations	Page 27
Charge Eight - Low-income home ownership.	Page 29
Recommendations	Page 32

Appendices

Appendix A - Charge One.	Page 34
Appendix B - Charge Four.	Page 125
Appendix C - Charge Five.	Page 140
Appendix D - Charge Eight.	Page 216
Appendix E - Interim hearing notices, agendas, minutes, and witness lists.	Page 227

Charge One

Study and make recommendations regarding the regulatory authority of counties in relation to development in unincorporated areas, including public safety and public health regulations, and the authority of counties to prevent new colonias development without sufficient water, wastewater, and other infrastructure.

Background

County authority to regulate development in an unincorporated area is largely contained in Chapter 232 (County Regulation of Subdivisions) of the Texas Local Government Code [See Appendix A-1]. Subchapter A (Subdivision Platting Requirements in General) of Chapter 232 sets out the basic framework of that authority. Over time, the legislature has given counties targeted, incremental additions to the authority granted by the platting requirements in Subchapter A. To stem the proliferation of colonias, Subchapter B provides counties near the international border with Mexico with tools to ensure the adequate provision of water, wastewater, and utility services, and establishes safeguards against construction in a floodplain. In some instances the authority granted is mandatory [See §232.030 (Subdivision Regulation; County)]; in others it is permissive [See § 232.0305 (County Inspector)]. In a similar vein, Subchapter C (Subdivision Platting Requirements in Certain Economically Distressed Counties) is intended to guarantee that residential development in “economically distressed” counties (those which qualify for financial aid under Section 15.407 of the Texas Water Code) is served by adequate water and wastewater facilities. In 2005 the legislature relaxed eligibility requirements for Subchapter C (House Bill 467). In response to that bill and interaction with the Senate Intergovernmental Relations Committee during the interim, the Texas Water Development Board is in the process of amending its administrative rules to allow *all* counties to both (1) apply for Economically Distressed Areas Program assistance and (2) adopt and enforce Model Subdivision Rules. Finally, Subchapter D allows the commissioners courts of counties covered by Subchapters B and C to appoint planning commissions to carry out the duties necessary for the approval of plats, and Subchapter E (Infrastructure Planning Provisions in Certain Urban Counties) grants rulemaking authority to urban and high-growth counties, permits them to set reasonable standards for lot frontages and set backs, and allows them to require more right-of-way for “major thoroughfares” than is otherwise provided for in Chapter 232.

Despite the limited expansions of county authority contained in the aforementioned subchapters, rapid population increases in many counties [See Appendix A-2 for a representative sample] have

caused local officials to petition their representatives in the legislature for increased ability to manage growth. Accordingly, several bills were filed on this topic during the 79th Regular Session of the Texas Legislature [See Appendix A-3 for a representative sample].

Interim Hearing

The committee held a public hearing on September 13, 2006, to discuss Charge 1. Witnesses expressed consensus in support of minimum water and wastewater standards for development in the unincorporated area of counties. Complete unanimity regarding specific additional authority from which counties might benefit, however, remained somewhat elusive.

While no one offered testimony in support of granting counties the zoning authority enjoyed by municipalities, the County Judges and Commissioners Association of Texas expressed support for land-use provisions such as those which would have been conferred by Senate Bill 142 had it passed last session, and the Texas Conference of Urban Counties cited the need to address the issue of incompatible land use. The Texas Association of Builders noted their past support for SB 142 and for Senate Bill 873 (77th Regular Session), which created Subchapter E of Chapter 232. Additionally, both the Association of Rural Communities in Texas and the Office of Rural and Community Affairs suggested that the population brackets governing Subchapter E be lifted.

Recommendations

1.1. The population brackets from Subchapters B and E of Chapter 232 should be removed. This would ensure that new development in *all* Texas counties, not just those located near the border, would meet basic standards for water and wastewater service and utility connections, and would not occur in the floodplain (without insurance). Additionally, counties would have *permissive* authority to adopt rules related to right-of-way, lot frontages, and set backs.

1.2 Counties should be given discretion to require a limited fire suppression system such as that outlined in Floor Amendment 1 to SB 142 (79th R) (See Appendix A-4).

Charge Two

Study and make recommendations relating to the use of funds collected from red light camera citations.

Background

Recent sessions of the legislature have seen several bills related to the use of red-light cameras. None passed.

- House Bill 1115 (77th R) - Relating to the authority of a municipality to implement a photographic traffic signal enforcement system; providing for the imposition of civil penalties and providing a criminal penalty. This bill died on the House floor.
- House Bill 200 (78th R) - Relating to the authority of a municipality to implement a photographic traffic signal enforcement system; providing for the imposition of civil penalties and providing a criminal penalty. This bill died in the House Committee on Transportation without receiving a hearing.
- House Bill 901 (78th R) - Relating to the authority of a municipality to implement a photographic traffic signal enforcement system; providing for the imposition of civil penalties and providing a criminal penalty. HB 901 died on the House floor.

But, during the 78th Legislature, Senate Bill 1184, relating to enforcing commercial motor vehicle standards, was amended on the House floor to define the term “regulating” in a way which has been interpreted to authorize the use of red-light cameras.¹

Opponents of red-light cameras attempted to repeal the amendment during the 79th Regular Session.

- House Bill 259 (79th R) - Relating to the powers of a county, municipality, or local entity

¹ The text of the amendment was as follows: “(3) ‘Regulating’ means criminal, civil, and administrative enforcement against a person, including the owner or operator of a motor vehicle, in accordance with a state law or a municipal ordinance.”

with respect to the regulation of traffic on highways under its jurisdiction. This bill passed the House, only to die on the Senate floor.

- House Bill 1347 (79th R) - Relating to the power of a local authority to enforce compliance with a traffic-control signal on a highway under its jurisdiction by a photographic traffic signal enforcement system. This also passed the House, but died in the Senate Committee on Intergovernmental Relations without receiving a hearing.

Subsequent to the 79th Regular Session, in June 2006, the Attorney General issued Opinion No. GA-0440, allowing municipalities to install red light cameras on state roads in partnership with TxDOT.

Interim Hearing

The committee held a public hearing on October 2, 2006, to discuss Charge 2. Cities represented on the panel expressed support for the use of red light camera enforcement technology, stating that any revenues collected over the operating costs are dedicated to public safety programs. Specifically, the City of Plano adopted a city ordinance that dedicates overage funds to the Automated Red Light Camera Enforcement Program, pedestrian and traffic safety programs, traffic enforcement and intersection improvements. Witnesses advised the committee that one violation results in a \$75 fine, with the fine increasing to \$150 for 3 or more violations within a twelve-month period.

Dallas Metroplex cities unanimously agreed to form the Texas Cities Red Light Coalition, with the intention that it would "serve as a forum for cities in addressing issues of mutual interest related to the use of red light camera technology and to ensure consistent policies on the use of the revenues generated from the program."

Recommendations

The legislature will revisit the underlying authority for red-light cameras during the 80th Regular

Session.² Because the very existence of this program remains in front of the legislature, the committee offers this recommendation.

2.1. Based on testimony received by the committee as to the successful use of red light cameras to improve safety at intersections, the legislature should definitively and explicitly approve the use of the cameras this session. The committee does take note of the inherent inequality in an enforcement regime in which a person cited by a law enforcement official receives a criminal citation, while one caught by a camera receives a civil one. While no recommendation is made at this time, the committee will continue to explore a way to resolve this conflict. If the legislature approves (or refuses to prohibit) the use of red light cameras, it should establish a revenue sharing system between the state and the localities that install and collect fines from red light camera violators. Revenue should be shared in a way which is comparable to the manner in which it is shared in the criminal context. Care should be taken to share revenue in a way that accounts for costs incurred by cities in establishing these programs. Revenue allocated to cities under the revenue-sharing system should be dedicated to public safety.

² On November 13, 2006, House Bill 55, relating to the power of a local authority to enforce compliance with a traffic-control signal on a highway under its jurisdiction by a photographic traffic signal enforcement system, was filed.

Charge Three

Study and make recommendations regarding the relationship between cities and special utility districts, including the formation of special utility districts in the extraterritorial jurisdiction of cities, and the ability of those districts to meet the future service needs of residents; the number of special utility districts currently existing and their effect on the overall property tax burden; as well as the significant growth/creation of special utility districts and their effect on the provision of services to residents.

Background

“Special districts,” is a term encompassing a wide variety of entities, each with their own set of rules and statutes governing their creation and operation. Such districts include, but are not limited to, municipal utility districts (MUDs), fresh water supply districts (FWSDs), public utility districts (PUDs), water control and improvement districts (WCIDs), and municipal management districts (MMDs). As a result of the state’s ongoing statutory revision program, special districts created by statute may now be found under four headings (Health, Development and Improvement, Transportation, and Water and Wastewater) in the Special District Local Laws Code. Names applicable to such districts are often used interchangeably, leading to some degree of confusion. Even more confusing is the fact that a district’s name does not always accurately represent the type of district it is (*i.e.*, something may be called a “drainage district” but operate as, and be governed by, the laws applicable to a water control and improvement district). For the sake of simplicity, and based on the predominance of the testimony received by the committee regarding this charge, the committee’s report will focus on MUDs.

Texas Commission on Environmental Quality (TCEQ) records show 650 MUDs currently active in Texas.³ At least 500 of these are in the Greater Houston area.⁴ Texas has permitted the use of bonds repaid with property taxes as a means of building infrastructure since 1904 (Art. 3, Sec. 52, Texas Constitution). MUDs have been explicitly authorized by statute since 1971 (*See* Chapter 54, Texas Water Code). Originally envisioned as a way to bring water and sewer service to areas not served by local governments, a variety of powers have been granted to MUDs through constitutional amendments and statutory changes over the years, the most recent of which occurred in 2003, when the legislature passed, and voters approved, a constitutional amendment authorizing MUDs in certain

³ TCEQ considers MUDs to be one of many different kinds of special districts all falling within the group “water districts.” “Special Utility Districts,” the specific terminology used in the committee’s charge, are also in this category, with 38 active in Texas at this time.

⁴ Joe B. Allen and David M. Oliver, Jr., *Texas Municipal Utility Districts: An Infrastructure Financing System*, at 2.

counties to use bond proceeds to build parks and recreational facilities.⁵ Suffice to say, today's MUDs can do a lot more than build water and wastewater infrastructure. And yet, building large, expensive infrastructure remains a primary function of MUDs. Developers find MUDs to be an extremely attractive model for creating new communities because the cost of the infrastructure, which in the absence of a MUD would be borne up front entirely by the developer, can be funded with bond revenue, with the bonds being paid off MUD residents through their property taxes. Proponents of this financial model for creating infrastructure, maintain that housing is more affordable when built in this context because fewer costs need be recovered through the price of individual lots.

Due to a variety of factors (*e.g.*, Houston voters' consistent rejection of zoning authority at the ballot box, experiences with successful annexations of MUDs, as has repeatedly occurred in Sugar Land, Texas⁶, etc.), Houston-area political subdivisions are comfortable with MUDs. Other areas of the state have concerns, however. Those most often mentioned are the potential conflict a high-density MUD-financed project could have with an area's planned growth, and the burden placed on city resources when large numbers of people move into a MUD community established on their outskirts (*i.e.*, the new residents will be using city-supported amenities like roads and parks, but their taxes will be paying off the MUD bonds rather than helping the city maintain facilities).

Interim Hearing

The committee heard testimony regarding this charge on September 13, 2006, in Austin. That testimony established that municipalities in the Houston area are comfortable with this method of development and creating infrastructure. Cities in other areas of the state, however, are less comfortable about their future relationships with MUDs as they begin to proliferate across the state.

⁵ Senate Bill 624 (78th Regular Session); SJR 30 (78th Regular Session).

⁶ Joe B. Allen and David M. Oliver, Jr., *Texas Municipal Utility Districts: An Infrastructure Financing System*, at 3.

Witnesses explained that the primary point of contention involves the issue of consent. When a developer proposes a MUD within a city's extraterritorial jurisdiction (ETJ), the city must consent to it. The hitch occurs when they do not. If a city does not approve a proposed MUD, they must agree to provide the infrastructure and services required by the MUD *as proposed*. If they do not, the developer may take the case to the TCEQ and get the MUD approved anyway, based on that failure to provide services. A city's offer to build the necessary infrastructure to serve a less dense development than that proposed, perhaps one more in keeping with that city's plan for the growth in its ETJ, is insufficient to survive a challenge at the TCEQ. The City of Austin lamented the occurrence of MUDs fighting annexation even when that eventuality was explicitly contemplated in the original consent documents governing their creation. Panelists differed over the role played by MUDs in creating affordable housing.

The panel did establish that problems which have arisen in the past when MUD subdivisions do not fully develop as planned, leaving existing homeowners saddled with an onerous tax rate, have been addressed through requirements that (1) all water and wastewater infrastructure must be in place; (2) 25 percent of the housing must be built; and (3) a market study completed, before the bonds financing the project can be sold.

Recommendations

3.1. Amend Section 54.016(b) of the Texas Water Code to bring balance to non-consent MUD creations in a city's ETJ.

In considering an application, the commission should consider whether a proposed development is consistent with a city-adopted comprehensive plan⁷ in place at the time of the application.

Under current law, a city's refusal to provide service at the exact level requested by the developer

⁷ See TEX. LOC. GOV'T CODE, Chapter 213 (Municipal Comprehensive Plans).

is dispositive with respect to commission approval of an application without a city's consent. This change would give the commission a better ability to evaluate each application based on its unique facts and circumstances. Existing law will continue to apply to non-consent situations in which no comprehensive plan has been adopted.

Charge Four

Study and make recommendations relating to counties' ability to apply for and receive state and federal grants. Focus on assessing the impact and use of grant funds, on streamlining the process, and upon the impact and options available for counties without incorporated cities and towns.

Background

As the Texas Legislature continues to work to provide basic services to all Texas residents while maintaining a relatively low tax burden for individuals and businesses, the importance of grant funding for various programs and initiatives of local political subdivisions has been heightened. In 2005, the legislature passed Senate Bill 1002 (*See Appendix B-1*), which required the Texas Department of Information Resources, working with the governor's office, to create a website upon which all state grant assistance opportunities will be posted. This website is to be searchable, and accessible through TexasOnline. The basis for SB 1002 and the website it creates is Public Law 106-107, the Federal Financial Assistance Management Improvement Act of 1999 (*See Appendix B-2*). That act is responsible for the creation of www.grants.gov, a website serving as a central clearinghouse for information about *federal* financial assistance programs.

Interim Hearing

The committee held a public hearing on Monday, October 16, 2006, in Austin to consider Charge 4. Testimony focused on efforts to coordinate the grant funding process for projects.

The Office of Rural and Community Affairs discussed their efforts to coordinate multi-agency funding opportunities, and noted that \$320,000 in state funding used by the agency to conduct leadership training in small communities had not been restored after being cut by the legislature in 2003. The governor's office and the Department of Information Resources updated the committee on their joint progress in implementing SB 1002 and streamlining the federal and state grant search and application process in general. Their testimony indicated that the implementation of SB 1002 will occur in two steps, and that the final cost could reach \$1 million.

Recommendations

Because implementation of SB 1002 is ongoing, the committee is unable to definitively assess the success of this coordinated effort to improve counties' ability to access grants. The recommendation, therefore, is a simple one, as follows:

4.1 - Monitor the development of the TexasOnline grant portal as it becomes searchable (completion of Phase I) during the first quarter of 2007 and as a common grant application is developed (Phase II).

Charge Five

Examine and make recommendations relating to the appropriateness and advisability of adopting the "Texas Uniform Planned Community Act," as published by the State Bar of Texas Subcommittee on Property Owners Associations, as the enabling statute to establish a comprehensive and uniform framework for the creation and operation of residential planned communities.

Background

As indicated on the first page of the website (<http://www.tupca.org>), the Texas Uniform Planned Community Act (TUPCA) (*See* Appendix C-1) is a legislative initiative sponsored by the Texas College of Real Estate Attorneys (rather than by the State Bar of Texas, as suggested by the charge). It has been under development since 1998. Why has such an initiative been undertaken? Texas has a uniform statutory regime dealing with common ownership of property in the condominium context, but law regarding associations in charge of residential subdivisions has been enacted in a more piecemeal fashion. Moreover, as individual homeowners express concerns with the actions of specific property owners associations, legislators often seek to address those issues by enacting new statutes or by amending old ones, potentially adding to the statutory clutter. Indeed, over the last three regular legislative sessions over sixty separate pieces of legislation have been filed regarding property owners associations (*See* Appendix C-2). To date, TUPCA has never been filed as a bill during a Texas legislative session.

Interim Hearing

The committee held a public hearing on Monday, October 2, 2006, in Austin to consider this charge. A variety of interested professional organizations and individuals offered invited testimony. Witnesses possessed a shared belief that Texas law concerning homeowners' associations contains duplicative provisions and generally needs revising, but opinions as to the scope of such revisions differed considerably. Also, public testimony was uniformly opposed to the adoption of TUPCA. Persons testifying against the adoption of TUPCA cited a number of problems with existing law in this area, and suggested that TUPCA would only exacerbate those problems. They were especially critical of homeowners associations' ability, and propensity, to foreclose.

Recommendations

Because disagreements about TUPCA remain numerous and fundamental, the committee cannot recommend its adoption at this time. However, efforts to find common ground among the interested parties did yield some fruit. Accordingly, the committee makes the following recommendations:

5.1. Perhaps the most bedrock principle to be established or reinforced by the legislature in the property association context is the idea of notice - buyers should know exactly what they are joining when they become members of an association when buying a home. Therefore, the committee recommends that the provision of resale certificates to prospective home buyers be mandatory. Such certificates should be made available a reasonable amount of time before the purchase (*i.e.*, not at closing) and should include information related to the number and nature of lawsuits involving the association (this will give potential buyers an idea as to whether the association is involved in a relatively high percentage of foreclosures for a subdivision of its size), as well as information detailing any deed restrictions in place.

Concern has been expressed regarding the cost of a resale certificate. This could be addressed by capping the amount charged for a certificate as a percentage of the purchase price of the home (*e.g.*, for a \$300,000 home, a cap of 1/8 of 1 percent would set a maximum charge for a resale certificate at \$375.00, 1/4 at \$750.00, etc.). Additionally, the cost for an updated resale certificate could be capped at a percentage of the cost of the original certificate if issued within a certain number of days of the original. This paragraph serves only to raise the issue and suggest responses - the committee makes no specific recommendation with respect to the cost of resale certificates.

5.2. An association should be able to amend its declaration by a vote of two-thirds of its homeowners (some older associations' documents list fees more appropriate to the mid-1970s, but updating them is made difficult by provisions requiring 90 percent homeowner approval - not 90 percent of those voting in an election, but 90 percent of all homes). This is consistent with the Uniform Condominium Act.

5.3. The legislature should require associations to offer payment plans for those behind on their assessments, fines, etc., upon a showing by the homeowner of a substantial change in personal circumstance (*e.g.*, job loss, serious illness).

5.4. The legislature should enact a homeowner payment prioritization schedule (*see* Appendix C-3). This is intended to prevent circumvention of existing law prohibiting foreclosure based on unpaid fines or attorneys fees.

5.5. Homeowners should be protected from the possibly endless accumulation of fines for a continuing violation. This could be accomplished by adopting language such as that proposed in Section 83.154 of the draft TUPCA statute. It reads as follows:

Sec. 83.154. PROTECTION FROM FINES. (a) A fine levied by the association must be reasonable in light of the nature, frequency, and effect of the violation. If the association allows fines for a continuing violation to accumulate against a lot or an owner, the association must establish a maximum fine amount for a continuing violation, at which point the total fine is capped.

(b) Before an owner is liable for a fine levied by the association for a violation of a governing document, the association must give the owner a written notice stating that the owner may avoid the proposed fine by curing the violation within a reasonable period, for which a date certain is specified, unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding 12 months.

(c) If a lot occupant other than the owner violates the governing documents, the association, in addition to exercising any of the association's powers against the owner, may levy fines directly against the nonowner occupant in the same manner as provided for owners.

(d) The association must give notice of a levied fine to the owner not later than the 30th day after the date of levy.

5.6. Subdivision plats and marketing materials should be required to clearly show the location at which utility infrastructure will be built and to specifically identify amenities which must be built.

5.7. The need for association members to have access to information about the enforcement practices of their board should be balanced with the privacy interests of individual homeowners by

requiring association records of assessments, fines, foreclosures, etc. to be made available in *redacted form*.

5.8. An association's ability to exercise a "right of refusal" to purchase property within a subdivision should be eliminated. House Bill 222, filed on November 14, 2006, proposes doing so by adding the following section to the Property Code:

Sec. 5.027. Right of Refusal to Purchase Property by Property Owners' Association. To the extent that a restriction in a deed, declaration or dedicatory instrument applicable to a residential property reserves the right of refusal to a property, the restriction is void. This section applies to a property owners' association or condominium owners' association that is entitled to levy regular or special assessments.

5.9. Homeowners should have the option to choose judicial or non-judicial foreclosure. Judicial foreclosure is likely to be more expensive, but some homeowners will feel more comfortable having such a significant dispute resolved by a court.

5.10. The legislature should examine title problems which arise with respect to common areas when a declarant/developer goes bankrupt or simply abandons a project before completion.

If such a developer is unwilling to transfer title to a designated common area, the remaining property owners may be left with an empty field or even a pile of rocks where a park or pool was to have been built. Without a way to gain title, little if anything can be done to remedy the situation. The committee simply raises this issue, as no solution is apparent as of this writing. Perhaps a judicial procedure could be created in statute by which a POA could be granted title if certain conditions were met.

5.11. To ensure confidence in contested elections, an association could be required to retain a disinterested party to count votes. This could be predicated upon a request by a certain percentage of its members.

Charge Six

Study the implementation and impact of legislation passed by the 79th Legislature to increase the economic impact of the Texas Wine Industry on the state's economy and make recommendations, as appropriate.

Background

The Texas wine industry was studied in depth by the committee during the interim between the 78th and 79th Regular Sessions. Former Senator Frank Madla, then the chair of the committee, filed several bills in response to that study. The following bills were enacted as a result:

- SB 571 set the hours of operation and sales for a winery;
- SB 877 anticipated a Supreme Court ruling allowing for the direct shipment of wine;
- SB 1137 set a percentage of Texas grapes which must be in a Texas wine, permitted the use of directional signage to promote interest in Texas wineries, and created the Wine Industry Development Fund in GR and;
- SB 1370 dedicated revenue attributed to increased wine sales resulting from the recently passed legislation (*see above*) to the Department of Agriculture, the Texas Wine Marketing Research Institute at Texas Tech, the Texas Cooperative Extension, and a program at Grayson County Community College.

Interim Hearing

The committee held a public hearing on October 16, 2006, to discuss Charge 6. Witnesses expressed consensus that the newly available funding for new and existing education, training, and research has aided the development of the wine industry. Similarly, there has been an increase in viticulture services provided through Texas A&M and Texas Tech universities. In addition, the Comptroller's office testified that sufficient revenue⁸ for the protection and development of grape and wine production was being generated by the wine excise tax and sales tax from winery permit holders and holders of out-of-state winery shippers' permits.

Recommendations

6.1 As the ink continues to dry on the legislation passed last session, and in light of testimony before the committee that those bills are having a positive effect so far, the committee simply recommends that the legislature continue to monitor implementation of those bills, appropriate programs and

⁸ \$4,090,000 for the 2006-2007 biennium.

policies, and relevant funding streams so that the development of this industry reaches its maximum potential. In addition, as outlined in SB 1370, discretionary funding will continue being administered by Texas Department of Agriculture, with a specific emphasis on academic support and extension outreach.

Charge Seven

Study the status of floodplain mapping in Texas communities and the scope of local governments' floodplain development management authority and make recommendations, as necessary, to enable communities to provide accurate floodplain data and management plans that will facilitate more favorable insurance rates and better protect the lives and property of Texas residents in the event of a natural disaster.

Background

Due to geography and population, Texas is especially flood prone and extremely susceptible to damage to persons and property from those floods.⁹ As the state continues to experience rapid population growth¹⁰ and the increased imperious cover that accompanies the development necessitated by that growth, our flood risk will only increase.

Recent legislative interims have featured studies of flooding-related issues by a “blue ribbon” committee created by the legislature in 1999 (SCR 68), and also by the Senate Natural Resources Committee (Charge 4, 77th Interim). The Blue Ribbon Committee Study’s scope was not limited to floodplain issues, but in that regard the committee did recommend diversion of \$1,000,000 collected by the Texas Department of Insurance from the sale of federal flood insurance policies to the Texas Commission on Environmental Quality (TCEQ). The money was to be used to hire 8.5 new FTEs who would work on floodplain management, mapping, and mitigation.¹¹ The Natural Resources Committee went further, recommending the creation of “a new state agency to consolidate the state’s flood mitigation efforts.”¹² The new agency was to be funded from the same source identified by the Blue Ribbon Committee Study.

Neither of the aforementioned recommendations was enacted by the legislature. As was the case then, the Federal Emergency Management Association (FEMA) remains the governmental entity

⁹Texas ranked 5th nationally in the number of flood claims (2,334) filed under the National Flood Insurance Program in FY 2005, resulting in over \$32 million in claims paid. Federal Emergency Management Agency. *Fiscal Year 2005 Statistics by State*. ONLINE. 2006. Available: <http://www.fema.gov/business/nfip/statistics/fy2005st.shtm> (Nov. 16, 2006.)

¹⁰ Texas’ population increased by 22.8 percent between 1990 and 2000, and was projected to increase an additional 9.6 percent between 2000 and 2005. The national numbers for those time periods are 13.1 percent and 5.3 percent. U.S. Bureau of the Census. *State and County Quickfacts*. ONLINE. 2006. Available: <http://quickfacts.census.gov/qfd/states/48000.html>. (Nov. 13, 2006).

¹¹ BLUE RIBBON COMMITTEE STUDY, SENATE CONCURRENT RESOLUTION 68, at 59-61 (January 2001).

¹² TEXAS SENATE COMM. ON NATURAL RESOURCES, INTERIM REPORT TO THE 78TH LEGISLATURE, at 59 (2001).

primarily responsible for all aspects of floodplain management. The agency sets safety standards for development in a floodplain and uses improving technology to update existing floodplain maps used by the insurance industry to set premiums and also by local governments to regulate development. FEMA also administers the National Flood Insurance Program (NFIP) as well as a variety of grant programs. Finally, FEMA funds Texas floodplain management efforts at the state agency level [2.5 FTEs at TCEQ]. That funding amounts to \$250,000 annually, supplemented by a state match of \$84,000. Three different state offices have some responsibility for floodplain issues. In addition to the TCEQ's role assisting local communities in taking advantage of FEMA programs, both the Governor's Division of Emergency Management and the Texas Water Development Board (TWDB) administer specific FEMA grants. TWDB is also involved in FEMA's map modernization efforts.

While the legislature has not yet followed up on recommendations to increase funding and staffing for floodplain management, it has demonstrated a commitment to improved local participation in federal floodplain programs intended to increase access to affordable flood insurance. In 1999 the legislature passed House Bill 1018, which required counties and cities not participating in the NFIP to adopt orders or ordinances necessary to make them eligible for participation. In the following session, the legislature passed Senate Bill 936, which specifically authorized cities and counties to participate in the NFIPs Community Rating System (CRS). The CRS uses a point system to provide flood insurance discounts based on certain actions taken by a community to reduce the likelihood and impact of flooding.¹³

Interim Hearing

The committee convened to hear testimony on Charge 7 on Monday, October 16, 2006, in Austin. An invited panel offered their views regarding the state of floodplain management in Texas. Panelists demonstrated, and committee members developed, a general consensus in favor of

¹³ Federal Emergency Management Agency. *Community Rating System*. ONLINE. 2006. Available: <http://www.fema.gov/business/nfip/crs.shtm>. (Nov. 13, 2006).

replacing the current FEMA practice of studying flooding issues, which is based on political boundaries and population centers, with a river basin approach. Furthermore, panelists suggested that current state staffing and expenditures were insufficient to adequately address floodplain management in a coordinated fashion.

Recommendations

7.1. The legislature should appropriate a portion or percentage of the tax currently collected on flood insurance premiums and dedicate the money to providing a sufficient number of new FTEs at an existing state agency to fully coordinate statewide efforts at floodplain management and to take advantage of federal funding opportunities.

The Blue Ribbon Committee thought \$1 million would be sufficient, and the Natural Resources Committee Interim Report from 2001 suggested appropriating all of the \$2.15 million being collected at that time. The most recent information available from the Texas Department of Insurance (calendar year 2004) shows over \$3 million collected for that year. Any appropriation from this source will represent a reduction in money to the state's General Revenue Fund (GR). However, if used as intended, more Texas communities should participate in the National Flood Insurance Program. As more policies are sold, more revenue will be realized, and the initial impact to GR will be restored. Additionally, through outreach and coordination from the state level, more communities will participate in FEMA's Community Rating System, thereby making flood insurance available at discounted rates and fulfilling the committee charge to "facilitate more favorable insurance rates."

7.2. The legislature should direct the appropriate state and local agencies and organizations to work with FEMA to alter the focus of their ongoing Flood Map Modernization Plan. At this time, FEMA is mapping high-risk areas based on county population. While this approach is intuitive - the highest risk to life and property is where the most people are - county boundaries are political and often drawn without respect to geography. Mapping on a river basin or river system scale should produce

a more accurate picture of the flood risk to each county in the basin. A more accurate risk assessment would produce more uniform insurance rates.

Absent legislative action on Recommendation 7.1, this recommendation will amount to little more than words of encouragement from the state suggesting that local political subdivisions try to join forces to engage FEMA on an ad hoc, regional basis. Testimony before the committee suggested that those communities able to bring money to the table in the form of matching funds are most likely to receive the benefit of updated FEMA maps. With funding in place and coordination from the state, matching funds could be directed toward regional, river basin-wide mapping, based on scientific and professional judgment rather than simply on which communities are best able to pool scarce resources in a sufficient amount to attract FEMA. While the latter approach has been implemented successfully through interlocal agreements by the Texas Colorado River Floodplain Coalition, a funded, state-driven process would be more comprehensive and provide a stronger potential partner for FEMA.

Charge Eight

Study the home ownership rate for low-income Texans. Make recommendations for increasing home ownership. Analyze options for enhancing Low Income Housing Tax Credits and include costs and benefits to the state.

Background

Texas ranks a regrettably low 44th in the country in home ownership.¹⁴ However, an entire state agency, established, non-profits, and private developers are all working to improve this unfortunate situation.

Texas Association of Local Housing Finance Agencies

The statewide umbrella organization for local housing finance agencies created by cities and counties is the Texas Association of Local Housing Finance Agencies (TALHFA also counts developers, law firms, and lenders among its members). Like the Texas State Affordable Housing Corporation (TSAHC), these organizations seek to make down payment and mortgage financing more accessible to first-time homebuyers who might otherwise have difficulty qualifying for or repaying a home loan.

Texas Department of Community and Housing Affairs

Perhaps the most prominent role played by the Texas Department of Community and Housing Affairs (TDHCA) in the state's affordable housing endeavors is its administration of the Low-Income Housing Tax Credit program, which allocates federal tax credits used as financial incentives to entice private developers to build units which will be available at less than market rate. Tax credits are awarded in an extremely competitive process in which individual projects are assigned points based on specific criteria. The statutory framework for this program may be found in Chapter 2306 (Texas Department of Housing and Community Affairs), Subchapter DD (Low Income Housing Tax Credit Program) of the Texas Government Code.

Texas Low-Income Housing Information Service

The two primary functions of the Texas Low-Income Housing Information Service (TLIHIS), which is also a non-profit, are to serve as a clearinghouse for information for low-income Texans interested in home ownership, and to engage in legislative and other advocacy on affordable housing issues.

¹⁴ U.S. Census Bureau. *Housing Vacancies and Home Ownership*. ONLINE. 2006. Available: <http://www.census.gov/hhes/www/housing/hvs/annual05/ann05ind.html>. (Nov. 15, 2006).
Senate Committee on Intergovernmental Relations

TLIHIS frequently works with legislators to ensure that programs intended to promote home ownership are working properly.

Texas State Affordable Housing Corporation

The Texas State Affordable Housing Corporation (TSAHC) is a legislatively created¹⁵ non-profit tasked with providing home financing to Texans who meet the legislative criteria for low, very low, and extremely low-income.¹⁶ TSAHC oversees three distinct, targeted programs for first-time purchasers of single-family housing: one for educators; one for law enforcement and fire-fighting personnel; and one for nursing faculty. The legislature has made available \$25 million in private activity bonding authority to TSAHC for each of the first two programs, and \$5 million for the latter. The corporation has also created a pilot program, the Affordable Homeownership Program for Texas, in cooperation with Ameriquest Mortgage Company. That program provides down payment assistance and access to low-interest rate loans for persons who might otherwise not be able to finance the purchase of a home.

Thanks to the combined efforts of the parties listed above, progress is being made. However, due to the complexities of the mortgage industry and process, the popularity of the tax credit program, and the sheer number of persons who need some assistance to realize the fundamental aspect of the American Dream that is home ownership, legislators continue to scrutinize the law in this area. For example, just last session, bills were introduced to: (1) add additional criteria to the scoring system used by TDHCA to issue private activity bonds and tax credits [Senate Bill 935]; (2) require that certain disclosures accompany a home loan with an interest rate of 12 percent or greater [Senate Bill 290]; and (3) provide that “government sponsored enterprises”¹⁷ submit annual reports to the Texas Finance Commission [SB 1357].

¹⁵ TEX. GOV'T CODE § 2306.551, et seq.

¹⁶ TEX. GOV'T CODE § 2306.004(15)-(17).

¹⁷ See 12 U.S.C. § 4502(6) (2006) for definition.

Interim Hearing

The committee considered this charge at a public hearing on October 16, 2006, in Austin. Representatives from TDHCA, TSAHC, and TLIHIS appeared as a panel. The panel agreed that the Low-Income Housing Tax Credit program at TDHCA was generally working well at this time. TSAHC testified as to the overwhelmingly popularity of two of their three profession-specific programs, remarking that the combined \$50 million in bonding authority was exhausted in a mere three months. In response to questioning from the committee, the corporation acknowledged that the program targeted at nursing faculty could be combined with the one intended for educators. TSAHC also noted that their pilot program partnership with Ameriquest had shown a low delinquency rate. TLIHIS focused on the need to better integrate low-income housing into the greater community, and suggested that additional state funding to supplement existing programs could be generated through a real estate transaction fee. Finally, written testimony offered to the committee at the hearing reflected the for-profit developer perspective and suggested several changes to TDHCA's operation of the tax credit program.

Recommendations

Representatives of both the for-profit and non-profit communities would undoubtedly like to see tweaks to the tax credit scoring system. The weight of testimony indicated that the program was working well, however, and so the committee takes no position on potential changes at this time. The committee does make the following recommendations:

8.1. The Professional Educators Home Loan Program (Section 1372.0221, Texas Government Code) and the Nursing Faculty Home Loan Program (Section 1372.0223, Texas Government Code) should be combined into one program (without a reduction in their respective private activity bond caps, so that the new bond cap represents, at a minimum, the allocations previously dedicated to both programs).

8.2. In light of the tremendous popularity of TSAHC's programs for first-time buyers of single-

family homes, the legislature should consider increasing their allocation of private activity bonds.

8.3. While not strictly within the confines of the committee's charge, the legislature should examine the state's private activity bond program with respect to multifamily housing. There is somewhat of a confluence of non-profit and for-profit interests concerning the integration of market-rate and income-restricted units in the same multifamily project. For example, a developer building a tax credit-supported project could possibly realize a greater return if allowed to include some market-rate units. In discussing that same subject, low-income housing advocates have suggested that a mixed-use project might be better accepted by a wider variety of neighborhoods, thereby avoiding the concentration or isolation of affordable housing within communities. An amendment to Section 1372.0321(a-1), Government Code, would be required to make this possible.¹⁸

¹⁸ Senate Bill 1595 [(79th Regular Session), *see* Appendix D-1] contained this and a number of other proposed amendments to the state's administration of private activity bonds.

APPENDIX A

APPENDIX A-1

LOCAL GOVERNMENT CODE

CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS

SUBCHAPTER A. SUBDIVISION PLATTING REQUIREMENTS IN GENERAL

§ 232.001. PLAT REQUIRED. (a) The owner of a tract of land located outside the limits of a municipality must have a plat of the subdivision prepared if the owner divides the tract into two or more parts to lay out:

- (1) a subdivision of the tract, including an addition;
- (2) lots; or
- (3) streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

(a-1) A division of a tract under Subsection (a) includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method.

(b) To be recorded, the plat must:

- (1) describe the subdivision by metes and bounds;
- (2) locate the subdivision with respect to an original corner of the original survey of which it is a part; and
- (3) state the dimensions of the subdivision and of each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part.

(c) The owner or proprietor of the tract or the owner's or proprietor's agent must acknowledge the plat in the manner required for the acknowledgment of deeds.

(d) The plat must be filed and recorded with the county clerk of the county in which the tract is located.

(e) The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

(f) Repealed by Acts 1995, 74th Leg., ch. 979, § 29, eff. June 16, 1995.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, § 3.05, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 422, § 8, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 979, § 29, eff. June 16, 1995; Acts 1999, 76th Leg., ch. 129, § 1, eff. Sept. 1, 1999.

§ 232.0013. CHAPTER-WIDE PROVISION RELATING TO REGULATION OF PLATS AND SUBDIVISIONS IN EXTRATERRITORIAL JURISDICTION. The authority of a county under this chapter relating to the regulation of plats or subdivisions in the extraterritorial jurisdiction of a municipality is subject to any applicable limitation prescribed by an agreement under Section 242.001 or by Section 242.002.

Added by Acts 2003, 78th Leg., ch. 523, § 7, eff. June 20, 2003.

§ 232.0015. EXCEPTIONS TO PLAT REQUIREMENT. (a) To determine whether specific divisions of land are required to be platted, a county may define and classify the divisions. A county need not require platting for every division of land otherwise within the scope of this subchapter.

(b) Except as provided by Section 232.0013, this subchapter does not apply to a subdivision of land to which Subchapter B applies.

(c) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

(2) the land is to be used primarily for agricultural use, as defined by Section 1-d, Article VIII, Texas Constitution, or for farm, ranch, wildlife management, or timber production use within the meaning of Section 1-d-1, Article VIII, Texas Constitution.

(d) If a tract described by Subsection (c) ceases to be used primarily for agricultural use or for farm, ranch, wildlife management, or timber production use, the platting requirements of this subchapter apply.

(e) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into four or fewer parts and does not lay out a part of the tract described by Section 232.001(a)(3) to have a plat of the subdivision prepared if each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code. If any lot is sold, given, or otherwise transferred to an individual who is not related to the owner within the third degree by consanguinity or affinity, the platting requirements of this subchapter apply.

(f) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) all of the lots of the subdivision are more than 10 acres in area; and

(2) the owner does not lay out a part of the tract described by Section 232.001(a)(3).

(g) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts and does not lay out a part of the tract described by Section 232.001(a)(3) to have a plat of the subdivision prepared if all the lots are sold to veterans through the Veterans' Land Board program.

(h) The provisions of this subchapter shall not apply to a subdivision of any tract of land belonging to the state or any state agency, board, or commission or owned by the permanent school fund or any other dedicated funds of the state unless the subdivision lays out a part of the tract described by Section 232.001(a)(3).

(i) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the owner of the land is a political subdivision of the state;

(2) the land is situated in a floodplain; and

(3) the lots are sold to adjoining landowners.

(j) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two parts to have a plat of the subdivision prepared if:

(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

(2) one new part is to be retained by the owner, and the other new part is to be transferred to another person who will further subdivide the tract subject to the plat approval requirements of this chapter.

(k) A county may not require the owner of a tract of land located outside the limits of a municipality who divides the tract into two or more parts to have a plat of the subdivision prepared if:

(1) the owner does not lay out a part of the tract described by Section 232.001(a)(3); and

(2) all parts are transferred to persons who owned an undivided interest in the original tract and a plat is filed before any further development of any part of the tract.

Added by Acts 1989, 71st Leg., ch. 624, § 3.04, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 979, § 3, eff. June 16, 1995; Acts 1999, 76th Leg., ch. 129, § 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 523, § 8, eff. June 20, 2003.

§ 232.002. APPROVAL BY COUNTY REQUIRED. (a) The commissioners court of the county in which the land is located must

approve, by an order entered in the minutes of the court, a plat required by Section 232.001. The commissioners court may refuse to approve a plat if it does not meet the requirements prescribed by or under this chapter or if any bond required under this chapter is not filed with the county.

(b) The commissioners court may not approve a plat unless the plat and other documents have been prepared as required by Section 232.0035, if applicable.

(c) If no portion of the land subdivided under a plat approved under this section is sold or transferred before January 1 of the 51st year after the year in which the plat was approved, the approval of the plat expires, and the owner must resubmit a plat of the subdivision for approval. A plat resubmitted for approval under this subsection is subject to the requirements prescribed by this chapter at the time the plat is resubmitted.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, § 3.04, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 884, § 1, eff. June 14, 2001.

§ 232.0021. PLAT APPLICATION FEE. (a) The commissioners court may impose an application fee to cover the cost of the county's review of a subdivision plat and inspection of street, road, and drainage improvements described by the plat.

(b) The fee may vary based on the number of proposed lots in the subdivision, the acreage described by the plat, the type or extent of proposed street and drainage improvements, or any other reasonable criteria as determined by the commissioners court.

(c) The owner of the tract to be subdivided must pay the fee at the time directed by the county before the county conducts a review of the plat.

(d) The fee is subject to refund under Section 232.0025(i).

Added by Acts 2003, 78th Leg., ch. 301, § 9, eff. Sept. 1, 2003.

§ 232.0025. TIMELY APPROVAL OF PLATS. (a) The commissioners court of a county or a person designated by the commissioners court shall issue a written list of the documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized under this section or other applicable law. An application submitted to the commissioners court or the person designated by the commissioners court that contains the documents and other information on the list is considered complete.

(b) If a person submits a plat application to the commissioners court that does not include all of the documentation or other information required by Subsection (a), the commissioners court or the court's designee shall, not later than the 10th

§ 232.003. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

- (1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;
- (2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;
- (3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;
- (4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;
- (5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;
- (6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing the extent to which water will be made available to the subdivision and, if it will be made available, how and when;
- (7) require that the owner of the tract to be subdivided execute a good and sufficient bond in the manner provided by Section 232.004;
- (8) adopt reasonable specifications that provide for drainage in the subdivision to:
 - (A) efficiently manage the flow of stormwater runoff in the subdivision; and
 - (B) coordinate subdivision drainage with the general storm drainage pattern for the area; and
- (9) require lot and block monumentation to be set by a registered professional surveyor before recordation of the plat.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, § 54(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, § 3.04, eff. Sept. 1, 1989; Acts 1999, 76th Leg., ch. 129, § 4, eff. Sept. 1, 1999.

§ 232.0031. STANDARD FOR ROADS IN SUBDIVISION. A county may not impose under Section 232.003 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of streets or roads with a similar type and amount of traffic.

Added by Acts 1999, 76th Leg., ch. 129, § 5, eff. Sept. 1, 1999.

§ 232.0032. ADDITIONAL REQUIREMENTS: USE OF GROUNDWATER. (a) If a person submits a plat for the subdivision of a tract of land for which the source of the water supply intended for the subdivision is groundwater under that land, the commissioners court of a county by order may require the plat application to have attached to it a statement that:

(1) is prepared by an engineer licensed to practice in this state or a geoscientist licensed to practice in this state; and

(2) certifies that adequate groundwater is available for the subdivision.

(b) The Texas Natural Resource Conservation Commission by rule shall establish the appropriate form and content of a certification to be attached to a plat application under this section.

Added by Acts 1999, 76th Leg., ch. 460, § 2, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 99, § 2(b), eff. Sept. 1, 2001. Renumbered from V.T.C.A., Local Government Code § 232.0031 by Acts 2001, 77th Leg., ch. 1420, § 21.001(85), eff. Sept. 1, 2001.

§ 232.004. BOND REQUIREMENTS. If the commissioners court requires the owner of the tract to execute a bond, the owner must do so before subdividing the tract unless an alternative financial guarantee is provided under Section 232.0045. The bond must:

(1) be payable to the county judge of the county in which the subdivision will be located or to the judge's successors in office;

(2) be in an amount determined by the commissioners court to be adequate to ensure proper construction of the roads and streets in and drainage requirements for the subdivision, but not to exceed the estimated cost of construction of the roads, streets, and drainage requirements;

(3) be executed with sureties as may be approved by the court;

(4) be executed by a company authorized to do business as a surety in this state if the court requires a surety bond executed by a corporate surety; and

(5) be conditioned that the roads and streets and the drainage requirements for the subdivision will be constructed:

(A) in accordance with the specifications adopted by the court; and

(B) within a reasonable time set by the court.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, § 54(b), eff. Aug. 28, 1989; Acts

1999, 76th Leg., ch. 129, § 6, eff. Sept. 1, 1999.

§ 232.0045. FINANCIAL GUARANTEE IN LIEU OF BOND. (a) In lieu of the bond an owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee.

(b) If a letter of credit is used, it must:

(1) list as the sole beneficiary the county judge of the county in which the subdivision is located; and
 (2) be conditioned that the owner of the tract of land to be subdivided will construct any roads or streets in the subdivision:

(A) in accordance with the specifications adopted by the commissioners court; and

(B) within a reasonable time set by the court.

Added by Acts 1989, 71st Leg., ch. 1, § 54(b), eff. Aug. 28, 1989.

§ 232.0048. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has a substantial interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more;

(2) acts as a developer of the tract;

(3) owns 10 percent or more of the voting stock or shares of or owns either 10 percent or more or \$5,000 or more of the fair market value of a business entity that:

(A) has an equitable or legal ownership interest in the tract with a fair market value of \$2,500 or more; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year funds from a business entity described by Subdivision (3) that exceed 10 percent of the person's gross income for the previous year.

(c) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to another person who, under Subsection (b), has a substantial interest in the tract.

(d) If a member of the commissioners court of a county has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court without the vote of the member who violated this section.

Added by Acts 1989, 71st Leg., ch. 624, § 3.04, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 561, § 39, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 76, § 5.95(27), eff. Sept. 1, 1995.

§ 232.005. ENFORCEMENT IN GENERAL; PENALTY. (a) At the request of the commissioners court, the county attorney or other prosecuting attorney for the county may file an action in a court of competent jurisdiction to:

(1) enjoin the violation or threatened violation of a requirement established by, or adopted by the commissioners court under a preceding section of this chapter; or

(2) recover damages in an amount adequate for the county to undertake any construction or other activity necessary to bring about compliance with a requirement established by, or adopted by the commissioners court under a preceding section of this chapter.

(b) A person commits an offense if the person knowingly or intentionally violates a requirement established by, or adopted by the commissioners court under a preceding section of this chapter. An offense under this subsection is a Class B misdemeanor. This subsection does not apply to a violation for which a criminal penalty is prescribed by Section 232.0048.

(c) A requirement that was established by or adopted under Chapter 436, Acts of the 55th Legislature, Regular Session, 1957 (Article 6626a, Vernon's Texas Civil Statutes), or Chapter 151, Acts of the 52nd Legislature, Regular Session, 1951 (Article 2372k, Vernon's Texas Civil Statutes), before September 1, 1983, and that, after that date, continues to apply to a subdivision of land is enforceable under Subsection (a). A knowing or intentional violation of the requirement is an offense under Subsection (b).

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, § 54(c), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 624, § 3.04, eff. Sept. 1, 1989.

§ 232.006. EXCEPTIONS FOR POPULOUS COUNTIES OR CONTIGUOUS COUNTIES. (a) This section applies to a county:

(1) that has a population of more than 3.3 million or is contiguous with a county that has a population of more than 3.3

million; and

(2) in which the commissioners court by order elects to operate under this section.

(b) If a county elects to operate under this section, Section 232.005 does not apply to the county. The sections of this chapter preceding Section 232.005 do apply to the county in the same manner that they apply to other counties except that:

(1) they apply only to tracts of land located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42;

(2) the commissioners court of the county, instead of having the powers granted by Sections 232.003(2) and (3), may:

(A) require a right-of-way on a street or road that does not function as a main artery in the subdivision of not less than 40 feet or more than 50 feet; and

(B) require that the street cut on a main artery within the right-of-way be not less than 30 feet or more than 45 feet, and that the street cut on any other street or road within the right-of-way be not less than 25 feet or more than 35 feet; and

(3) Section 232.004(5)(B) does not apply to the county.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 624, § 3.06, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 669, § 76, eff. Sept. 1, 2001.

§ 232.007. MANUFACTURED HOME RENTAL COMMUNITIES. (a) In this section:

(1) "Manufactured home rental community" means a plot or tract of land that is separated into two or more spaces or lots that are rented, leased, or offered for rent or lease, for a term of less than 60 months without a purchase option, for the installation of manufactured homes for use and occupancy as residences.

(2) "Business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

(b) A manufactured home rental community is not a subdivision, and Sections 232.001-232.006 do not apply to the community.

(c) After a public hearing and after notice is published in a newspaper of general circulation in the county, the commissioners court of a county, by order adopted and entered in the minutes of the commissioners court, may establish minimum infrastructure standards for manufactured home rental communities located in the county outside the limits of a municipality. The minimum standards may include only:

(1) reasonable specifications to provide adequate drainage in accordance with standard engineering practices, including specifying necessary drainage culverts and identifying areas included in the 100-year flood plain;

(2) reasonable specifications for providing an adequate public or community water supply, including specifying the location of supply lines, in accordance with Subchapter C, Chapter 341, Health and Safety Code;

(3) reasonable requirements for providing access to sanitary sewer lines, including specifying the location of sanitary sewer lines, or providing adequate on-site sewage facilities in accordance with Chapter 366, Health and Safety Code;

(4) a requirement for the preparation of a survey identifying the proposed manufactured home rental community boundaries and any significant features of the community, including the proposed location of manufactured home rental community spaces, utility easements, and dedications of rights-of-way; and

(5) reasonable specifications for streets or roads in the manufactured rental home community to provide ingress and egress access for fire and emergency vehicles.

(d) The commissioners court may not adopt minimum infrastructure standards that are more stringent than requirements adopted by the commissioners court for subdivisions. The commissioners court may only adopt minimum infrastructure standards for ingress and egress access by fire and emergency vehicles that are reasonably necessary.

(e) If the commissioners court adopts minimum infrastructure standards for manufactured home rental communities, the owner of land located outside the limits of a municipality who intends to use the land for a manufactured home rental community must have an infrastructure development plan prepared that complies with the minimum infrastructure standards adopted by the commissioners court under Subsection (c).

(f) Not later than the 60th day after the date the owner of a proposed manufactured home rental community submits an infrastructure development plan for approval, the county engineer or another person designated by the commissioners court shall approve or reject the plan in writing. If the plan is rejected, the written rejection must specify the reasons for the rejection and the actions required for approval of the plan. The failure to reject a plan within the period prescribed by this subsection constitutes approval of the plan.

(g) Construction of a proposed manufactured home rental community may not begin before the date the county engineer or another person designated by the commissioners court approves the infrastructure development plan. The commissioners court may require inspection of the infrastructure during or on completion of its construction. If a final inspection is required, the final inspection must be completed not later than the second business day after the date the commissioners court or the person designated by the commissioners court receives a written confirmation from the owner that the construction of the infrastructure is complete. If the inspector determines that the infrastructure complies with the infrastructure development plan, the commissioners court shall

issue a certificate of compliance not later than the fifth business day after the date the final inspection is completed. If a final inspection is not required, the commissioners court shall issue a certificate of compliance not later than the fifth business day after the date the commissioners court or the person designated by the commissioners court receives written certification from the owner that construction of the infrastructure has been completed in compliance with the infrastructure development plan.

(h) A utility may not provide utility services, including water, sewer, gas, and electric services, to a manufactured home rental community subject to an infrastructure development plan or to a manufactured home in the community unless the owner provides the utility with a copy of the certificate of compliance issued under Subsection (g). This subsection applies only to:

- (1) a municipality that provides utility services;
- (2) a municipally owned or municipally operated utility that provides utility services;
- (3) a public utility that provides utility services;
- (4) a nonprofit water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides utility services;
- (5) a county that provides utility services; and
- (6) a special district or authority created by state law that provides utility services.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 153, § 1, eff. Aug. 30, 1999.

§ 232.008. CANCELLATION OF SUBDIVISION. (a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42.

(b) A person owning real property in this state that has been subdivided into lots and blocks or into small subdivisions may apply to the commissioners court of the county in which the property is located for permission to cancel all or part of the subdivision, including a dedicated easement or roadway, to reestablish the property as acreage tracts as it existed before the subdivision. If, on the application, it is shown that the cancellation of all or part of the subdivision does not interfere with the established rights of any purchaser who owns any part of the subdivision, or it is shown that the purchaser agrees to the cancellation, the commissioners court by order shall authorize the owner of the subdivision to file an instrument canceling the subdivision in whole or in part. The instrument must describe the subdivision or the part of it that is canceled. The court shall enter the order in its minutes. After the cancellation instrument is filed and recorded in the deed records of the county, the county tax assessor-collector shall assess the property as if it had never

been subdivided.

(c) The commissioners court shall publish notice of an application for cancellation. The notice must be published in a newspaper, published in the English language, in the county for at least three weeks before the date on which action is taken on the application. The court shall take action on an application at a regular term. The published notice must direct any person who is interested in the property and who wishes to protest the proposed cancellation to appear at the time specified in the notice.

(d) If delinquent taxes are owed on the subdivided tract for any preceding year, and if the application to cancel the subdivision is granted as provided by this section, the owner of the tract may pay the delinquent taxes on an acreage basis as if the tract had not been subdivided. For the purpose of assessing the tract for a preceding year, the county tax assessor-collector shall back assess the tract on an acreage basis.

(e) On application for cancellation of a subdivision or any phase or identifiable part of a subdivision, including a dedicated easement or roadway, by the owners of 75 percent of the property included in the subdivision, phase, or identifiable part, the commissioners court by order shall authorize the cancellation in the manner and after notice and a hearing as provided by Subsections (b) and (c). However, if the owners of at least 10 percent of the property affected by the proposed cancellation file written objections to the cancellation with the court, the grant of an order of cancellation is at the discretion of the court.

(f) To maintain an action to enjoin the cancellation or closing of a roadway or easement in a subdivision, a person must own a lot or part of the subdivision that:

- (1) abuts directly on the part of the roadway or easement to be canceled or closed; or
- (2) is connected by the part of the roadway or easement to be canceled or closed, by the most direct feasible route, to:
 - (A) the nearest remaining public highway, county road, or access road to the public highway or county road; or
 - (B) any uncanceled common amenity of the subdivision.

(g) A person who appears before the commissioners court to protest the cancellation of all or part of a subdivision may maintain an action for damages against the person applying for the cancellation and may recover as damages an amount not to exceed the amount of the person's original purchase price for property in the canceled subdivision or part of the subdivision. The person must bring the action within one year after the date of the entry of the commissioners court's order granting the cancellation.

(h) The commissioners court may deny a cancellation under this section if the commissioners court determines the cancellation will prevent the proposed interconnection of infrastructure to pending or existing development.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 129, § 7, eff. Sept. 1, 1999.

§ 232.0085. CANCELLATION OF CERTAIN SUBDIVISIONS IF LAND REMAINS UNDEVELOPED. (a) This section applies only to real property located:

(1) outside municipalities and the extraterritorial jurisdiction of municipalities, as determined under Chapter 42; and

(2) in an affected county, as defined by Section 16.341, Water Code, that has adopted the model rules developed under Section 16.343, Water Code, and is located along an international border.

(b) The commissioners court of a county may cancel, after notice and a hearing as required by this section, a subdivision for which the plat was filed and approved before September 1, 1989, if:

(1) the development of or the making of improvements in the subdivision was not begun before the effective date of this section; and

(2) the commissioners court by resolution has made a finding that the land in question is likely to be developed as a colonia.

(c) The commissioners court must publish notice of a proposal to cancel a subdivision under this section and the time and place of the required hearing in a newspaper of general circulation in the county for at least 21 days immediately before the date a cancellation order is adopted under this section. The county tax assessor-collector shall, not later than the 14th day before the date of the hearing, deposit with the United States Postal Service a similar notice addressed to each owner of land in the subdivision, as determined by the most recent county tax roll.

(d) At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the court shall adopt an order on whether to cancel the subdivision. The commissioners court may adopt an order canceling a subdivision if the court determines the cancellation is in the best interest of the public. The court may not adopt an order canceling a subdivision if:

(1) the cancellation interferes with the established rights of a person who is a nondeveloper owner and owns any part of the subdivision, unless the person agrees to the cancellation; or

(2) the owner of the entire subdivision is able to show that:

(A) the owner of the subdivision is able to comply with the minimum state standards and model political subdivision rules developed under Section 16.343, Water Code, including any bonding requirements; or

(B) the land was developed or improved within the period described by Subsection (b).

(e) The commissioners court shall file the cancellation order for recording in the deed records of the county. After the cancellation order is filed and recorded, the property shall be treated as if it had never been subdivided, and the county chief appraiser shall assess the property accordingly. Any liens against the property shall remain against the property as it was previously subdivided.

(f) In this section:

(1) "Development" means the making, installing, or constructing of buildings and improvements.

(2) "Improvements" means water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; and other utility facilities. The term does not include roadway facilities.

Added by Acts 1995, 74th Leg., ch. 277, § 2, eff. June 5, 1995.

§ 232.009. REVISION OF PLAT. (a) This section applies only to real property located outside municipalities and the extraterritorial jurisdiction of municipalities with a population of 1.5 million or more, as determined under Chapter 42.

(b) A person who owns real property in a tract that has been subdivided and that is subject to the subdivision controls of the county in which the property is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat that applies to the property and that is filed for record with the county clerk.

(c) After the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. Except as provided by Subsection (f), if all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(d) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land;
or

(2) each owner whose rights may be interfered with has agreed to the revision.

(e) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for

record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

(f) The commissioners court is not required to give notice by mail under Subsection (c) if the plat revision only combines existing tracts.

Acts 1987, 70th Leg., ch. 149, § 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 345, § 6, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 129, § 8, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 523, § 9, eff. June 20, 2003.

§ 232.0095. ALTERNATIVE PROCEDURES FOR PLAT REVISION. (a) This section applies only to real property located outside municipalities and outside the extraterritorial jurisdiction, as determined under Chapter 42, of municipalities with a population of 1.5 million or more.

(b) As an alternative to the provisions in Section 232.009 governing the revision of plats, a county by order may adopt the provisions in Sections 212.013, 212.014, 212.015, and 212.016 governing plat vacations, replatting, and plat amendment within a municipality's jurisdiction. A county that adopts the provisions in those sections may approve a plat vacation, a replat, and an amending plat in the same manner and under the same conditions, including the notice and hearing requirements, as a municipal authority responsible for approving plats under those sections.

Added by Acts 2003, 78th Leg., ch. 523, § 10, eff. June 20, 2003.

§ 232.010. EXCEPTION TO PLAT REQUIREMENT: COUNTY DETERMINATION. A commissioners court of the county may allow conveyance of portions of one or more previously platted lots by metes and bounds description without revising the plat.

Added by Acts 1989, 71st Leg., ch. 345, § 7, eff. Aug. 28, 1989.

SUBCHAPTER B. SUBDIVISION PLATTING REQUIREMENTS IN COUNTY NEAR INTERNATIONAL BORDER

§ 232.021. DEFINITIONS. In this subchapter:

- (1) "Board" means the Texas Water Development Board.
 - (2) "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:
 - (A) contiguous or part of the same area of land;
- or

(B) known, designated, or advertised as a common unit or by a common name.

(3) "Executive administrator" means the executive administrator of the Texas Water Development Board.

(4) "Floodplain" means any area in the 100-year floodplain that is susceptible to being inundated by water from any source or that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

(5) "Lease" includes an offer to lease.

(6) "Lot" means a parcel into which land that is intended for residential use is divided.

(7) "Minimum state standards" means the minimum standards set out for:

(A) adequate drinking water by or under Section 16.343(b)(1), Water Code;

(B) adequate sewer facilities by or under Section 16.343(c)(1), Water Code; or

(C) the treatment, disposal, and management of solid waste by or under Chapters 361 and 364, Health and Safety Code.

(8) "Plat" means a map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments.

(9) "Sell" includes an offer to sell.

(10) "Sewer," "sewer services," or "sewer facilities" means treatment works as defined by Section 17.001, Water Code, or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.

(11) "Subdivide" means to divide the surface area of land into lots intended primarily for residential use.

(12) "Subdivider" means an individual, firm, corporation, or other legal entity that owns any interest in land and that directly or indirectly subdivides land into lots as part of a common promotional plan in the ordinary course of business.

(13) "Subdivision" means an area of land that has been subdivided into lots for sale or lease.

(14) "Utility" means a person, including a legal entity or political subdivision, that provides the services of:

(A) an electric utility, as defined by Section 31.002, Utilities Code;

(B) a gas utility, as defined by Section 101.003, Utilities Code; and

(C) a water and sewer utility, as defined by Section 13.002, Water Code.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 62, § 18.35, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 404, § 4, eff. Sept. 1, 1999.

§ 232.022. APPLICABILITY. (a) This subchapter applies only to:

(1) a county any part of which is located within 50 miles of an international border; or

(2) a county:

(A) any part of which is located within 100 miles of an international border;

(B) that contains the majority of the area of a municipality with a population of more than 250,000; and

(C) to which Subdivision (1) does not apply.

(b) This subchapter applies only to land that is subdivided into two or more lots that are intended primarily for residential use in the jurisdiction of the county. A lot is presumed to be intended for residential use if the lot is five acres or less. This subchapter does not apply if the subdivision is incident to the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity, as determined under Chapter 573, Government Code.

(c) Except as provided by Subsection (c-1), for purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and outside the corporate limits of municipalities.

(c-1) Land in a municipality's extraterritorial jurisdiction is not considered to be in the jurisdiction of a county for purposes of this section if the municipality and the county have entered into a written agreement under Section 242.001 that authorizes the municipality to regulate subdivision plats and approve related permits in the municipality's extraterritorial jurisdiction.

(d) This subchapter does not apply if each of the lots of the subdivision is 10 or more acres.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1997, 75th Leg., ch. 376, § 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 404, § 5, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 737, § 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 708, § 2, eff. Sept. 1, 2005.

§ 232.023. PLAT REQUIRED. (a) A subdivider of land must have a plat of the subdivision prepared. A subdivision of a tract under this subsection includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

(b) A plat required under this section must:

(1) be certified by a surveyor or engineer registered

to practice in this state;

(2) define the subdivision by metes and bounds;

(3) locate the subdivision with respect to an original corner of the original survey of which it is a part;

(4) describe each lot, number each lot in progression, and give the dimensions of each lot;

(5) state the dimensions of and accurately describe each lot, street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, alley, square, park, or other part;

(6) include or have attached a document containing a description in English and Spanish of the water and sewer facilities and roadways and easements dedicated for the provision of water and sewer facilities that will be constructed or installed to service the subdivision and a statement specifying the date by which the facilities will be fully operable;

(7) have attached a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities proposed under Subdivision (6) are in compliance with the model rules adopted under Section 16.343, Water Code, and a certified estimate of the cost to install water and sewer service facilities;

(8) provide for drainage in the subdivision to:

(A) avoid concentration of storm drainage water from each lot to adjacent lots;

(B) provide positive drainage away from all buildings; and

(C) coordinate individual lot drainage with the general storm drainage pattern for the area;

(9) include a description of the drainage requirements as provided in Subdivision (8);

(10) identify the topography of the area;

(11) include a certification by a surveyor or engineer registered to practice in this state describing any area of the subdivision that is in a floodplain or stating that no area is in a floodplain; and

(12) include certification that the subdivider has complied with the requirements of Section 232.032 and that:

(A) the water quality and connections to the lots meet, or will meet, the minimum state standards;

(B) sewer connections to the lots or septic tanks meet, or will meet, the minimum requirements of state standards;

(C) electrical connections provided to the lot meet, or will meet, the minimum state standards; and

(D) gas connections, if available, provided to the lot meet, or will meet, the minimum state standards.

(c) A subdivider may meet the requirements of Subsection (b)(12)(B) through the use of a certificate issued by the appropriate county or state official having jurisdiction over the

approval of septic systems stating that lots in the subdivision can be adequately and legally served by septic systems.

(d) The subdivider of the tract must acknowledge the plat by signing the plat and attached documents and attest to the veracity and completeness of the matters asserted in the attached documents and in the plat.

(e) The plat must be filed and recorded with the county clerk of the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 6, eff. Sept. 1, 1999.

§ 232.024. APPROVAL BY COUNTY REQUIRED. (a) A plat filed under Section 232.023 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless the plat evidences a restrictive covenant as required by this subsection. The restrictive covenant shall prohibit the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing qualifies for insurance under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

(c) On request, the county clerk shall provide the attorney general or the Texas Water Development Board:

- (1) a copy of each plat that is approved under this subchapter; or
- (2) the reasons in writing and any documentation that support a variance granted under Section 232.042.

(d) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.034 relating to conflicts of interest.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 7, eff. Sept. 1, 1999.

§ 232.025. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in English and Spanish in a newspaper of general circulation in the county, the commissioners court shall for each subdivision:

(1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;

(2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;

(3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 25 feet or more than 35 feet;

(4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;

(5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;

(6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision; and

(7) require that the subdivider of the tract execute a bond in the manner provided by Section 232.027.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16 1995.

§ 232.026. WATER AND SEWER SERVICE EXTENSION. (a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.

(c) If the commissioners court provides an extension, the commissioners court shall notify the attorney general of the extension and the reason for the extension. The attorney general shall notify all other state agencies having enforcement power over subdivisions of the extension.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 8, eff. Sept. 1, 1999.

§ 232.027. BOND REQUIREMENTS. (a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.024, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the FDIC. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.

§ 232.028. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. (a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

(1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;

(2) whether water service facilities have been constructed or installed to service the subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the subdivision under Section 232.023.

(c) The request made under Subsection (b) must identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations under that subsection.

(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.

(g) The commissioners court may impose a fee for a certificate issued under this section for a subdivision part of which is located in the extraterritorial jurisdiction of a municipality and part of which is not located in the extraterritorial jurisdiction of the municipality. The amount of the fee may not be greater than the amount of the fee imposed by the municipality for a subdivision that is located entirely in the extraterritorial jurisdiction of the municipality for a certificate issued under Section 212.0115. A person who obtains a certificate under this section is not required to obtain a certificate under Section 212.0115.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 129, § 9, eff. Sept. 1, 1999.

§ 232.029. CONNECTION OF UTILITIES IN COUNTIES WITHIN 50 MILES OF INTERNATIONAL BORDER. (a) This section applies only to a county defined under Section 232.022(a)(1).

(a-1) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(b) Except as provided by Subsection (c) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or

executory contract:

(i) before September 1, 1995; or
 (ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) is located in a subdivision in which the utility has previously provided service; and

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun:

(i) on or before May 1, 1997; or
 (ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(2) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (c)(1).

(e) A person requesting service may obtain a certificate under Subsection (c)(1) only if the person provides to the commissioners court either:

(1) documentation containing:

(A) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service:

(i) before September 1, 1995; or
 (ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and

(B) a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun:

(i) on or before May 1, 1997; or
 (ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by

Chapter 42; or

(2) a notarized affidavit by the person requesting service that states that:

(A) the property was sold or conveyed to that person:

(i) before September 1, 1995; or
 (ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and

(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun:

(i) on or before May 1, 1997; or
 (ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42.

(f) A person requesting service may obtain a certificate under Subsection (c)(2) only if the person provides to the commissioners court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent:

(1) after September 1, 1995; or
 (2) after September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42.

(g) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(h) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) The prohibition established by this section shall not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot being sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, which is located within a subdivision where the utility has previously established service and was subdivided by a plat approved prior to September 1, 1989.

(j) In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.

Amended by Acts 1997, 75th Leg., ch. 1062, § 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 404, § 9, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 684, § 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 708, § 3, 4, eff. Sept. 1, 2005.

§ 232.0291. CONNECTION OF UTILITIES IN CERTAIN COUNTIES WITHIN 100 MILES OF INTERNATIONAL BORDER. (a) This section applies only to a county defined under Section 232.022(a)(2).

(b) Except as provided by Subsection (d) or Section 232.037(c), a utility may not serve or connect any subdivided land with water or sewer services unless the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b)(1) that the plat has been reviewed and approved by the commissioners court.

(c) Except as provided by Subsection (d) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Section 232.028(b)(2) that adequate water and sewer services have been installed to service the subdivision.

(d) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract before September 1, 2005;

(B) is located in a subdivision in which the utility has previously provided service; and

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before September 1, 2005; or

(2) the subdivided land was not subdivided after September 1, 2005, and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) A utility may provide utility service to subdivided land described by Subsection (d)(1) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (d)(1).

(f) A person requesting service may obtain a certificate under Subsection (d)(1) only if the person provides to the commissioners court either:

(1) documentation containing:

(A) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 2005; and

(B) a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005; or

(2) a notarized affidavit by the person requesting service that states that:

(A) the property was sold or conveyed to that person before September 1, 2005; and

(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before September 1, 2005.

(g) A person requesting service may obtain a certificate under Subsection (d)(2) only if the person provides to the commissioners court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 2005.

(h) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(i) This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(j) The prohibition established by this section does not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot:

(1) sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider before September 1, 2005;

(2) located within a subdivision where the utility has previously established service; and

(3) subdivided by a plat approved before September 1, 1989.

(k) In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

Added by Acts 2005, 79th Leg., ch. 708, § 5, eff. Sept. 1, 2005.

§ 232.030. SUBDIVISION REGULATION; COUNTY AUTHORITY. (a) The commissioners court for each county shall adopt and enforce the model rules developed under Section 16.343, Water Code.

(b) Except as provided by Section 16.350(d), Water Code, or Section 232.042 or 232.043, the commissioners court may not grant a variance or adopt regulations that waive any requirements of this subchapter.

(c) The commissioners court shall adopt regulations setting forth requirements for:

- (1) potable water sufficient in quality and quantity to meet minimum state standards;
- (2) solid waste disposal meeting minimum state standards and rules adopted by the county under Chapter 364, Health and Safety Code;
- (3) sufficient and adequate roads that satisfy the standards adopted by the county;
- (4) sewer facilities meeting minimum state standards;
- (5) electric service and gas service; and
- (6) standards for flood management meeting the minimum standards set forth by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

(d) In adopting regulations under Subsection (c)(2), the commissioners court may allow one or more commercial providers to provide solid waste disposal services as an alternative to having the service provided by the county.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 10, eff. Sept. 1, 1999.

§ 232.0305. COUNTY INSPECTOR. (a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.

Added by Acts 1999, 76th Leg., ch. 404, § 11, eff. Sept. 1, 1999.

§ 232.031. REQUIREMENTS PRIOR TO SALE OR LEASE. (a) Except as provided by Subsection (d), a subdivider may not sell or

lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

(b) Not later than the 30th day after the date a lot is sold, a subdivider shall record with the county clerk all sales contracts, including the attached disclosure statement required by Section 232.033, leases, and any other documents that convey an interest in the subdivided land.

(c) A document filed under Subsection (b) is a public record.

(d) In a county defined under Section 232.022(a)(2), a subdivider may not sell or lease land in a subdivision first platted or replatted after September 1, 2005, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 2005, 79th Leg., ch. 708, § 6, eff. Sept. 1, 2005.

§ 232.032. SERVICES PROVIDED BY SUBDIVIDER. A subdivider having an approved plat for a subdivision shall:

(1) furnish a certified letter from the utility provider stating that water is available to the subdivision sufficient in quality and quantity to meet minimum state standards required by Section 16.343, Water Code, and consistent with the certification in the letter, and that water of that quality and quantity will be made available to the point of delivery to all lots in the subdivision;

(2) furnish sewage treatment facilities that meet minimum state standards to fulfill the wastewater requirements of the subdivision or furnish certification by the appropriate county or state official having jurisdiction over the approval of the septic systems indicating that lots in the subdivision can be adequately and legally served by septic systems as provided under Chapter 366, Health and Safety Code;

(3) furnish roads satisfying minimum standards as adopted by the county;

(4) furnish adequate drainage meeting standard engineering practices; and

(5) make a reasonable effort to have electric utility service and gas utility service installed by a utility.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.

§ 232.033. ADVERTISING STANDARDS AND OTHER REQUIREMENTS BEFORE SALE; OFFENSE. (a) Brochures, publications, and advertising of any form relating to subdivided land:

(1) may not contain any misrepresentation; and
 (2) except for a for-sale sign posted on the property that is no larger than three feet by three feet, must accurately describe the availability of water and sewer service facilities and electric and gas utilities.

(b) The subdivider shall provide a copy in Spanish of all written documents relating to the sale of subdivided land under an executory contract, including the contract, disclosure notice, and annual statement required by this section and a notice of default required by Subchapter D, Chapter 5, Property Code, if:

(1) negotiations that precede the execution of the executory contract are conducted primarily in Spanish; or

(2) the purchaser requests the written documents to be provided in Spanish.

(c) Before an executory contract is signed by the purchaser, the subdivider shall provide the purchaser with a written notice, which must be attached to the executory contract, informing the purchaser of the condition of the property that must, at a minimum, be executed by the subdivider and purchaser, be acknowledged, and read substantially similar to the following:

IF ANY OF THE ITEMS BELOW HAVE NOT BEEN CHECKED, YOU MAY NOT BE ABLE TO LIVE ON THE PROPERTY.

WARNING

CONCERNING THE PROPERTY AT (street address or legal description and municipality)

THIS DOCUMENT STATES THE TRUE FACTS ABOUT THE LAND YOU ARE CONSIDERING PURCHASING.

CHECK OFF THE ITEMS THAT ARE TRUE:

The property is in a recorded subdivision.

The property has water service that provides potable water.

The property has sewer service or a septic system.

The property has electric service.

The property is not in a flood-prone area.

The roads are paved.

No person other than the subdivider:

(1) owns the property;

(2) has a claim of ownership to the property; or

(3) has an interest in the property.

___ No person has a lien filed against the property.

___ There are no back taxes owed on the property.

NOTICE

SELLER ADVISES PURCHASER TO:

(1) OBTAIN A TITLE ABSTRACT OR TITLE COMMITMENT REVIEWED BY AN ATTORNEY BEFORE SIGNING A CONTRACT OF THIS TYPE; AND

(2) PURCHASE AN OWNER'S POLICY OF TITLE INSURANCE COVERING THE PROPERTY.

(Date)

(Signature of Sub

(Date)

(Signature of Pu

(d) The subdivider shall provide any purchaser who is sold a lot under an executory contract with an annual statement in January of each year for the term of the executory contract. If the subdivider mails the statement to the purchaser, the statement must be postmarked not later than January 31.

(e) The statement under Subsection (d) must include the following information:

- (1) the amount paid under the contract;
- (2) the remaining amount owed under the contract;
- (3) the annual interest rate charged under the contract during the preceding 12-month period; and
- (4) the number of payments remaining under the contract.

(f) If the subdivider fails to comply with Subsections (d) and (e), the purchaser may:

(1) notify the subdivider that the purchaser has not received the statement and will deduct 15 percent of each monthly payment due until the statement is received; and

(2) not earlier than the 25th day after the date the purchaser provides the subdivider notice under this subsection, deduct 15 percent of each monthly payment due until the statement is received by the purchaser.

(g) A purchaser who makes a deduction under Subsection (f) is not required to reimburse the subdivider for the amount deducted.

(h) A person who is a seller of lots in a subdivision, or a subdivider or an agent of a seller or subdivider, commits an offense if the person knowingly authorizes or assists in the publication,

advertising, distribution, or circulation of any statement or representation that the person knows is false concerning any subdivided land offered for sale or lease. An offense under this section is a Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. July 1, 1995.
Amended by Acts 1999, 76th Leg., ch. 62, § 13.17, eff. Sept. 1, 1999.

§ 232.034. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has an interest in a subdivided tract if the person:

- (1) has an equitable or legal ownership interest in the tract;
- (2) acts as a developer of the tract;
- (3) owns voting stock or shares of a business entity

that:

(A) has an equitable or legal ownership interest in the tract; or

(B) acts as a developer of the tract; or
(4) receives in a calendar year money or any thing of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.

§ 232.035. CIVIL PENALTIES. (a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) Notwithstanding any other remedy at law or equity, a subdivider or an agent of a subdivider may not cause, suffer, allow, or permit any part of a subdivision over which the subdivider or an agent of the subdivider has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

(c) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than \$500 or more than \$1,000 for each violation and for each day of a continuing violation but not to exceed \$5,000 each day and shall also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(d) Except as provided by Subsection (e), a person who violates Subsection (a) or (b) is subject to a civil penalty of not less than \$10,000 or more than \$15,000 for each lot conveyed or each subdivision that becomes a nuisance. The person must also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(e) A person who violates Subsection (b) is not subject to a fine under Subsection (d) if the person corrects the nuisance not later than the 30th day after the date the person receives notice from the attorney general or a local health authority of the nuisance.

(f) Venue for an action under this section is in a district court of Travis County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 12, eff. Sept. 1, 1999.

§ 232.036. CRIMINAL PENALTIES. (a) A subdivider commits an offense if the subdivider knowingly fails to file a plat required by this subchapter. An offense under this subsection is a Class A misdemeanor.

(b) A subdivider who owns a subdivision commits an offense if the subdivider knowingly fails to timely provide for the construction or installation of water or sewer service as required by Section 232.032 or fails to make a reasonable effort to have electric utility service and gas utility service installed by a

utility as required by Section 232.032. An offense under this subsection is a Class A misdemeanor.

(c) If it is shown at the trial of an offense under Subsection (a) that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony.

(d) A subdivider commits an offense if the subdivider allows the conveyance of a lot in the subdivision without the appropriate water and sewer utilities as required by Section 232.032 or without having made a reasonable effort to have electric utility service and gas utility service installed by a utility as required by Section 232.032. An offense under this section is a Class A misdemeanor. Each lot conveyed constitutes a separate offense.

(e) Venue for prosecution for a violation under this section is in the county in which any element of the violation is alleged to have occurred or in Travis County.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.

§ 232.037. ENFORCEMENT. (a) The attorney general, or the district attorney, criminal district attorney, county attorney with felony responsibilities, or county attorney of the county may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

(1) enjoin the violation or threatened violation of the model rules adopted under Section 16.343, Water Code;

(2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs; and

(4) require platting or replatting under Section 232.040.

(b) The attorney general, at the request of the district or county attorney with jurisdiction, may conduct a criminal prosecution under Section 232.033(h) or 232.036.

(c) During the pendency of any enforcement action brought, any resident of the affected subdivision, or the attorney general, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of pre-existing utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health, safety, or welfare of the residents.

(d) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 13, 14, eff. Sept. 1,

1999.

§ 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. (a) Except as provided by Subsection (b), a person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, from a subdivider, may bring suit in the district court in which the property is located or in a district court in Travis County to:

- (1) declare the sale of the property void and require the subdivider to return the purchase price of the property; and
- (2) recover from the subdivider:
 - (A) the market value of any permanent improvements the person placed on the property;
 - (B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;
 - (C) court costs; and
 - (D) reasonable attorney's fees.

(b) If the lot is located in a county defined under Section 232.022(a)(2), a person may only bring suit under Subsection (a) if the person purchased or is purchasing the lot after September 1, 2005.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 15, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 708, § 7, eff. Sept. 1, 2005.

§ 232.039. CANCELLATION OF SUBDIVISION. (a) A subdivider of land may apply to the commissioners court to cancel all or part of the subdivision in the manner provided by Section 232.008 after notice and hearing as provided by this section.

(b) A resident of a subdivision for which the subdivider has applied for cancellation under Subsection (a) has the same rights as a purchaser of land under Section 232.008.

(c) The notice required by Section 232.008(c) must also be published in Spanish in the newspaper of highest circulation and in a Spanish-language newspaper in the county if available.

(d) Not later than the 14th day before the date of the hearing, the county chief appraiser shall by regular and certified mail provide notice containing the information described by Section 232.008(c) to:

- (1) each person who pays property taxes in the subdivision, as determined by the most recent tax roll; and
- (2) each person with an interest in the property.

(e) The commissioners court may require a subdivider to provide the court with the name and last known address of each

person with an interest in the property. For purposes of this subsection, a person residing on a lot purchased through an executory contract has an interest in the property.

(f) A person who fails to provide information requested under Subsection (e) before the 31st day after the date the request is made is liable to the state for a penalty of \$500 for each week the person fails to provide the information.

(g) The commissioners court may cancel a subdivision only after a public hearing. At the hearing, the commissioners court shall permit any interested person to be heard. At the conclusion of the hearing, the commissioners court shall adopt an order on whether to cancel the subdivision.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 16, eff. Sept. 1, 1999.

§ 232.040. REPLATTING. (a) A subdivision plat must accurately reflect the subdivision as it develops. If there is any change, either by the intentional act of the subdivider or by the forces of nature, including changes in the size or dimension of lots or the direction or condition of the roads, a plat must be revised in accordance with Section 232.041.

(b) Except as provided by Subsection (c), a lot in a subdivision may not be sold if the lot lacks water and sewer services as required by this subchapter unless the lot is platted or replatted as required by this subchapter. A subdivider or agent of a subdivider may not transfer a lot through an executory contract or other similar conveyance to evade the requirements of this subchapter. The prohibition in this subsection includes the sale of a lot:

(1) by a subdivider who regains possession of a lot previously exempt under Subsection (c) through the exercise of a remedy described in Section 5.061, Property Code; or

(2) for which it is shown at a proceeding brought in the district court in which the property is located that the sale of a lot otherwise exempt under Subsection (c) was made for the purpose of evading the requirements of this subchapter.

(c) Subsection (b) does not apply if a seller other than a subdivider or agent of a subdivider resides on the lot.

(d) The attorney general or a district or county attorney with jurisdiction may bring a proceeding under Subsection (b).

(e) Existing utility services to a subdivision that must be platted or replatted under this section may not be terminated under Section 232.029 or 232.0291.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 17, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 708, § 8, eff. Sept. 1, 2005.

§ 232.041. REVISION OF PLAT. (a) A person who has subdivided land that is subject to the subdivision controls of the county in which the land is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat filed for record with the county clerk.

(b) After the application is filed with the commissioners court, the court shall publish a notice of the application in a newspaper of general circulation in the county. The notice must include a statement of the time and place at which the court will meet to consider the application and to hear protests to the revision of the plat. The notice must be published at least three times during the period that begins on the 30th day and ends on the seventh day before the date of the meeting. If all or part of the subdivided tract has been sold to nondeveloper owners, the court shall also give notice to each of those owners by certified or registered mail, return receipt requested, at the owner's address in the subdivided tract.

(c) During a regular term of the commissioners court, the court shall adopt an order to permit the revision of the subdivision plat if it is shown to the court that:

(1) the revision will not interfere with the established rights of any owner of a part of the subdivided land; or

(2) each owner whose rights may be interfered with has agreed to the revision.

(d) If the commissioners court permits a person to revise a subdivision plat, the person may make the revision by filing for record with the county clerk a revised plat or part of a plat that indicates the changes made to the original plat.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.

§ 232.042. VARIANCES FROM REPLATTING REQUIREMENTS. (a) On request of a subdivider or resident purchaser, the commissioners court may grant a delay or a variance from compliance with Section 232.040 as provided by this section.

(b) The commissioners court may grant a delay of two years if the reason for the delay is to install utilities. A person may apply for one renewal of a delay under this subsection. To obtain an initial delay under this subsection, a subdivider must:

(1) identify the affected utility providers;

(2) provide the terms and conditions on which service may be provided; and

(3) provide a certified letter from each utility provider stating that it has the right to serve the area and it will serve the area.

(c) The commissioners court may grant a delay or a variance

for a reason other than a reason described by Subsection (b) if it is shown that compliance would be impractical or would be contrary to the health and safety of residents of the subdivision. The commissioners court must issue written findings stating the reasons why compliance is impractical.

(d) A delay or a variance granted by the commissioners court is valid only if the commissioners court notifies the attorney general of the delay or variance and the reasons for the delay or variance not later than the 30th day after the date the commissioners court grants the delay or variance.

(e) Until approved water and sewer services are made available to the subdivision, the subdivider of land for which a delay is granted under this section must provide at no cost to residents:

- (1) 25 gallons of potable water a day for each resident and a suitable container for storing the water; and
- (2) suitable temporary sanitary wastewater disposal facilities.

Added by Acts 1995, 74th Leg., ch. 979, § 4, eff. June 16, 1995.
Amended by Acts 1999, 76th Leg., ch. 404, § 18, eff. Sept. 1, 1999.

§ 232.043. VARIANCES FROM PLATTING REQUIREMENTS. (a) On the request of a subdivider who created an unplatted subdivision or a resident purchaser of a lot in the subdivision, the commissioners court of a county may grant:

(1) a delay or variance from compliance with the subdivision requirements prescribed by Section 232.023(b)(8) or (9), 232.025(1), (2), (3), (4), or (5), or 232.030(c)(2), (3), (5), or (6); or

(2) a delay or variance for an individual lot from compliance with the requirements prescribed by the model subdivision rules adopted under Section 16.343, Water Code, for:

- (A) the distance that a structure must be set back from roads or property lines; or
- (B) the number of single-family, detached dwellings that may be located on a lot.

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold before:

(A) September 1, 1995, in a county defined under Section 232.022(a)(1); or

(B) September 1, 2005, in a county defined under Section 232.022(a)(2);

(2) a majority of the resident purchasers in the

subdivision sign a petition supporting the delay or variance;

(3) the person requesting the delay or variance submits to the commissioners court:

(A) a description of the water and sewer service facilities that will be constructed or installed to service the subdivision;

(B) a statement specifying the date by which the water and sewer service facilities will be fully operational; and

(C) a statement signed by an engineer licensed in this state certifying that the plans for the water and sewer facilities meet the minimum state standards;

(4) the commissioners court finds that the unplatted subdivision at the time the delay or variance is requested is developed in a manner and to an extent that compliance with specific platting requirements is impractical or contrary to the health or safety of the residents of the subdivision; and

(5) the subdivider who created the unplatted subdivision has not violated local law, federal law, or state law, excluding this chapter, in subdividing the land for which the delay or variance is requested, if the subdivider is the person requesting the delay or variance.

(c) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision owns property in the subdivision, the commissioners court may grant a provisional delay or variance only if the requirements of Subsection (b) are satisfied. The commissioners court may issue a final grant of the delay or variance only if the commissioners court has not received objections from the attorney general before the 91st day after the date the commissioners court submits the record of its proceedings to the attorney general as prescribed by Subsection (d).

(d) If the commissioners court grants a delay or variance under this section, the commissioners court shall:

(1) make findings specifying the reason compliance with each requirement is impractical or contrary to the health or safety of residents of the subdivision;

(2) keep a record of its proceedings and include in the record documentation of the findings and the information submitted under Subsection (b); and

(3) submit a copy of the record to the attorney general.

(e) The failure of the attorney general to comment or object to a delay or variance granted under this section does not constitute a waiver of or consent to the validity of the delay or variance granted.

(f) This section does not affect a civil suit filed against, a criminal prosecution of, or the validity of a penalty imposed on a subdivider for a violation of law, regardless of the date on which the violation occurred.

Added by Acts 1999, 76th Leg., ch. 404, § 19, eff. Sept. 1, 1999.

Amended by Acts 2005, 79th Leg., ch. 708, § 9, eff. Sept. 1, 2005.

SUBCHAPTER C. SUBDIVISION PLATTING REQUIREMENTS IN CERTAIN
ECONOMICALLY DISTRESSED COUNTIES

§ 232.071. APPLICABILITY. This subchapter applies only to the subdivision of land located:

(1) outside the corporate limits of a municipality;
and

(2) in a county:

(A) in which is located a political subdivision that is eligible for and has applied for financial assistance under Section 15.407, Water Code, or Subchapter K, Chapter 17, Water Code; and

(B) to which Subchapter B does not apply.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 404, § 21, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 927, § 14, eff. Sept. 1, 2005.

§ 232.072. PLAT REQUIRED. (a) The owner of a tract of land that divides the tract in any manner that creates lots of five acres or less intended for residential purposes must have a plat of the subdivision prepared. A subdivision of a tract under this section includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

(b) A plat required under this section must:

(1) include on the plat or have attached to the plat a document containing a description of the water and sewer service facilities that will be constructed or installed to service the subdivision and a statement of the date by which the facilities will be fully operable; and

(2) have attached to the plat a document prepared by an engineer registered to practice in this state certifying that the water and sewer service facilities described by the plat or the document attached to the plat are in compliance with the model rules adopted under Section 16.343, Water Code.

(c) A plat required under this section must be filed and recorded with the county clerk of the county in which the tract is located. The plat is subject to the filing and recording provisions of Section 12.002, Property Code.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.

§ 232.073. APPROVAL BY COUNTY REQUIRED. (a) A plat filed under Section 232.072 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.078 relating to conflicts of interest.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 404, § 22, eff. Sept. 1, 1999.

§ 232.074. BOND REQUIREMENTS. (a) Unless a person has completed the installation of all water and sewer service facilities required by this subchapter on the date that person applies for final approval of a plat under Section 232.073, the commissioners court shall require the subdivider of the tract to execute and maintain in effect a bond or, in the alternative, a person may make a cash deposit in an amount the commissioners court determines will ensure compliance with this subchapter. A person may not meet the requirements of this subsection through the use of a letter of credit unless that letter of credit is irrevocable and issued by an institution guaranteed by the Federal Deposit Insurance Corporation. The subdivider must comply with the requirement before subdividing the tract.

(b) The bond must be conditioned on the construction or installation of water and sewer service facilities that will be in compliance with the model rules adopted under Section 16.343, Water Code.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.

§ 232.075. WATER AND SEWER SERVICE EXTENSION. (a) The commissioners court may extend, beyond the date specified on the plat or on the document attached to the plat, the date by which the water and sewer service facilities must be fully operable if the commissioners court finds the extension is reasonable and not contrary to the public interest.

(b) The commissioners court may not grant an extension under Subsection (a) if it would allow an occupied residence to be without water or sewer services.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.

§ 232.076. CERTIFICATION REGARDING COMPLIANCE WITH PLAT REQUIREMENTS. (a) On the approval of a plat by the commissioners court, the commissioners court shall issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the commissioners court.

(b) On its own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall:

(1) determine whether a plat is required under this subchapter for an identified tract of land that is located within the jurisdiction of the county; and

(2) if a plat is required for the identified tract, determine whether a plat has been reviewed and approved by the commissioners court.

(c) The request made under Subsection (b) must adequately identify the land that is the subject of the request.

(d) Whenever a request is made under Subsection (b), the commissioners court shall issue the requesting party a written certification of its determinations.

(e) The commissioners court shall make its determinations within 20 days after the date it receives the request under Subsection (b) and shall issue the certificate, if appropriate, within 10 days after the date the determinations are made.

(f) The commissioners court may adopt rules it considers necessary to administer its duties under this section.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.

§ 232.077. CONNECTION OF UTILITIES IN CERTAIN COUNTIES. (a) This section applies only to a tract of land for which a plat is required under this subchapter.

(b) An entity described by Subsection (c) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 232.076 stating that a plat has been reviewed and approved for the land.

(c) The prohibition established by Subsection (b) applies only to:

(1) a municipality, and officials of the municipality, that provides water, sewer, electricity, gas, or other utility service;

(2) a municipally owned or municipally operated utility that provides any of those services;

(3) a public utility that provides any of those services;

(4) a water supply or sewer service corporation organized and operating under Chapter 67, Water Code, that provides any of those services;

(5) a county that provides any of those services; and

(6) a special district or authority created by or under state law that provides any of those services.

(d) The prohibition established by Subsection (b) applies only to land that an entity described by Subsection (c) first serves or first connects with services:

(1) between September 1, 1989, and June 16, 1995; or

(2) after the effective date of this subchapter.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 62, § 18.36, eff. Sept. 1, 1999.

§ 232.0775. COUNTY INSPECTOR. (a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.

Added by Acts 1999, 76th Leg., ch. 404, § 23, eff. Sept. 1, 1999.

§ 232.078. CONFLICT OF INTEREST; PENALTY. (a) In this section, "subdivided tract" means a tract of land, as a whole, that is subdivided into tracts or lots. The term does not mean an individual lot in a subdivided tract of land.

(b) A person has an interest in a subdivided tract if the person:

(1) has an equitable or legal ownership interest in the tract;

(2) acts as a developer of the tract;

(3) owns voting stock or shares of a business entity

that:

(A) has an equitable or legal ownership interest in the tract; or

(B) acts as a developer of the tract; or

(4) receives in a calendar year money or any thing of value from a business entity described by Subdivision (3).

(c) A person also is considered to have an interest in a subdivided tract if the person is related in the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who, under Subsection (b), has an

interest in the tract.

(d) If a member of the commissioners court has an interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for the tract, an affidavit with the county clerk stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the county clerk.

(e) A member of the commissioners court of a county commits an offense if the member violates Subsection (d). An offense under this subsection is a Class A misdemeanor.

(f) The finding by a court of a violation of this section does not render voidable an action of the commissioners court unless the measure would not have passed the commissioners court but for the vote of the member who violated this section.

(g) A conviction under Subsection (e) constitutes official misconduct by the member and is grounds for removal from office.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.

§ 232.079. CIVIL PENALTIES. (a) A subdivider or an agent of a subdivider may not cause, suffer, allow, or permit a lot to be sold in a subdivision if the subdivision has not been platted as required by this subchapter.

(b) A subdivider who fails to provide, in the time and manner described in the plat, for the construction or installation of water or sewer service facilities described on the plat or on the document attached to the plat or who otherwise violates this subchapter or a rule or requirement adopted by the commissioners court under this subchapter is subject to a civil penalty of not less than \$500 or more than \$1,000 for each violation and for each day of a continuing violation but not to exceed \$5,000 each day and shall also pay court costs, investigative costs, and attorney's fees for the governmental entity bringing the suit.

(c) Venue for an action under this section is in a district court of Travis County, a district court in the county in which the defendant resides, or a district court in the county in which the violation or threat of violation occurs.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.

§ 232.080. ENFORCEMENT. (a) The attorney general, or the district attorney, criminal district attorney, or county attorney, may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

- (1) enjoin the violation or threatened violation of applicable model rules adopted under Section 16.343, Water Code;
- (2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the

commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs; and

(4) require platting as required by this subchapter.

(b) During the pendency of any enforcement action brought, any resident of the affected subdivision, or the attorney general, district attorney, or county attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of preexisting utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that termination poses a threat to public health or to the health, safety, or welfare of the residents. This subsection does not prohibit a provider of utilities from terminating services under other law to a resident who has failed to timely pay for services.

(c) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.

Added by Acts 1997, 75th Leg., ch. 377, § 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 404, § 24, eff. Sept. 1, 1999.

SUBCHAPTER D. COUNTY PLANNING COMMISSION

§ 232.091. APPLICABILITY. This subchapter applies only to a county:

- (1) authorized to establish a planning commission under Subchapter B or C; and
- (2) in which the commissioners court by order elects to operate under this subchapter.

Added by Acts 1999, 76th Leg., ch. 404, § 25, eff. Sept. 1, 1999.

§ 232.092. ESTABLISHMENT AND ABOLITION OF PLANNING COMMISSION. (a) To promote the general public welfare, the commissioners court of a county by order may:

- (1) establish a planning commission under this section; and
- (2) abolish a planning commission established under this section.

(b) The commissioners court may authorize the planning commission to act on behalf of the commissioners court in matters relating to:

- (1) the duties and authority of the commissioners court under Subchapter A, B, or C; and
- (2) land use, health and safety, planning and

development, or other enforcement provisions specifically authorized by law.

(c) If the commissioners court establishes a planning commission, the commissioners court by order shall adopt reasonable rules and procedures necessary to administer this subchapter.

(d) This subchapter does not grant a commissioners court or a planning commission the power to regulate the use of property for which a permit has been issued to engage in a federally licensed activity.

Added by Acts 1999, 76th Leg., ch. 404, § 25, eff. Sept. 1, 1999.

§ 232.093. APPOINTMENT OF MEMBERS OF PLANNING COMMISSION. (a) The commissioners court may appoint a planning commission consisting of five members. Members are appointed for staggered terms of two years.

(b) A person appointed as a member of the planning commission must be a citizen of the United States and reside in the county.

(c) The commissioners court shall file with the county clerk a certificate of appointment for each commission member.

(d) The commissioners court shall fill any vacancy on the commission.

(e) Before a planning commission member undertakes the duties of the office, the member must:

(1) take the official oath; and
 (2) swear in writing that the member will promote the interest of the county as a whole and not only a private interest or the interest of a special group or location in the county.

(f) A member of the planning commission serves at the pleasure of the commissioners court and is subject to removal as provided by Chapter 87.

Added by Acts 1999, 76th Leg., ch. 404, § 25, eff. Sept. 1, 1999.

§ 232.094. FINANCIAL DISCLOSURE. (a) A member of the planning commission shall file a financial disclosure report in the same manner as required for county officers under Subchapter B, Chapter 159.

(b) If the commissioners court of the county in which the planning commission member serves has not adopted a financial disclosure reporting system under Subchapter B, Chapter 159, the planning commission member shall file a financial disclosure report in the same manner as required for county officers under Subchapter A, Chapter 159.

Added by Acts 1999, 76th Leg., ch. 404, § 25, eff. Sept. 1, 1999.

§ 232.095. OFFICERS, QUORUM, AND MEETINGS. (a) At the first meeting of each calendar year, the planning commission shall elect a presiding officer and assistant presiding officer. The presiding officer presides over the meetings and executes all documentation required on behalf of the planning commission. The assistant presiding officer represents the presiding officer during the presiding officer's absence.

(b) There is no limitation on the number of terms a member may serve on the commission.

(c) Minutes of the planning commission's proceedings must be filed with the county clerk or other county officer or employee designated by the commissioners court. The minutes of the planning commission's proceedings are a public record.

(d) The planning commission is subject to Chapters 551 and 552, Government Code.

(e) The planning commission may adopt rules necessary to administer this subchapter. Rules adopted under this subsection are subject to approval by the commissioners court.

Added by Acts 1999, 76th Leg., ch. 404, § 25, eff. Sept. 1, 1999.

§ 232.096. TIMELY APPROVAL OF PLATS. (a) The planning commission shall issue a written list of the documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized by law. An application submitted to the planning commission that contains the documents and other information on the list is considered complete.

(b) If a person submits an incomplete plat application to the planning commission, the planning commission or its designee shall, not later than the 15th business day after the date the planning commission or its designee receives the application, notify the applicant of the missing documents or other information. The planning commission or its designee shall allow an applicant to timely submit the missing documents or other information.

(c) An application is considered complete on the date all documentation and other information required by Subsection (a) is received by the planning commission.

(d) If the approval of the plat is within the exclusive jurisdiction of the planning commission, the planning commission shall take final action on a plat application, including the resolution of all appeals, not later than the 60th day after the date a completed plat application is received by the planning commission.

(e) The time period prescribed by Subsection (d) may be extended for:

- (1) a reasonable period if requested by the applicant;

and

(2) an additional 60 days if the county is required under Chapter 2007, Government Code, to perform a takings impact assessment in connection with a plat submitted for approval.

(f) The planning commission may not compel an applicant to waive the time limits prescribed by this section.

(g) If the planning commission fails to take final action on the completed plat application as required by this section, the applicant may apply to a district court in the county in which the land is located for a mandamus order to compel the planning commission to approve or disapprove the plat. A planning commission subject to a mandamus order under this subsection shall make a decision approving or disapproving the plat not later than the 20th business day after the date a copy of the mandamus order is served on the presiding officer of the planning commission. If the planning commission approves the plat, the planning commission, within the 20-day period prescribed by this subsection, shall:

(1) refund the greater of the unexpended portion of any plat application fee or deposit or 50 percent of a plat application fee or deposit that has been paid;

(2) determine the appropriate amount of any bond or other financial guarantee required in connection with the plat approval; and

(3) issue documents recognizing the plat's approval.

(h) Except as provided by this subsection, an approval of a plat by the planning commission is final on the 31st day after the date the planning commission votes to approve the plat. On the request of a county commissioner, the commissioners court shall review a plat approved by the planning commission not later than the 30th day after the date the planning commission votes to approve the plat. The commissioners court may disapprove the plat if the plat fails to comply with state law or rules adopted by the county or the planning commission. If the commissioners court fails to take action within the 30-day period prescribed by this subsection, the decision of the planning commission is final.

(i) In this section, "business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

Added by Acts 1999, 76th Leg., ch. 404, § 25, eff. Sept. 1, 1999.

§ 232.097. REASONS FOR DISAPPROVAL OF PLAT REQUIRED. If the planning commission refuses to approve a plat, the planning commission shall provide to the person requesting approval a notice specifying the reason for the disapproval.

Added by Acts 1999, 76th Leg., ch. 404, § 25, eff. Sept. 1, 1999.

SUBCHAPTER E. INFRASTRUCTURE PLANNING PROVISIONS IN CERTAIN URBAN COUNTIES

§ 232.100. APPLICABILITY. This subchapter applies only to the subdivision of the land that is:

- (1) subject to county regulations under Subchapter A or B; and
- (2) in a county that:
 - (A) has a population of 150,000 or more and is adjacent to an international border;
 - (B) has a population of 700,000 or more;
 - (C) is adjacent to a county with a population of 700,000 or more and is within the same metropolitan statistical area as that adjacent county, as designated by the United States Office of Management and Budget; or
 - (D) is adjacent to a county with a population of 700,000 or more, is not within the same metropolitan statistical area as that adjacent county, and has a population that has increased after the 1990 decennial census, from one decennial census to the next, by more than 40 percent.

Added by Acts 2001, 77th Leg., ch. 736, § 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 523, § 11, eff. June 20, 2003.

§ 232.101. RULES. (a) By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt rules governing plats and subdivisions of land within the unincorporated area of the county to promote the health, safety, morals, or general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county.

(b) Unless otherwise authorized by state law, a commissioners court shall not regulate under this section:

- (1) the use of any building or property for business, industrial, residential, or other purposes;
- (2) the bulk, height, or number of buildings constructed on a particular tract of land;
- (3) the size of a building that can be constructed on a particular tract of land, including without limitation and restriction on the ratio of building floor space to the land square footage; or
- (4) the number of residential units that can be built per acre of land.

(c) The authority granted under Subsection (a) is subject to the exemptions to plat requirements provided for in Section 232.0015.

Added by Acts 2001, 77th Leg., ch. 736, § 1, eff. Sept. 1, 2001.

§ 232.102. MAJOR THOROUGHFARE PLAN. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

(1) require a right-of-way on a street or road that functions as a major thoroughfare of a width of not more than 120 feet; or

(2) require a right-of-way on a street or road that functions as a major thoroughfare of a width of more than 120 feet, if such requirement is consistent with a transportation plan adopted by the metropolitan planning organization of the region.

Added by Acts 2001, 77th Leg., ch. 736, § 1, eff. Sept. 1, 2001.

§ 232.103. LOT FRONTAGES. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt reasonable standards for minimum lot frontages on existing county roads and establish reasonable standards for the lot frontages in relation to curves in the road.

Added by Acts 2001, 77th Leg., ch. 736, § 1, eff. Sept. 1, 2001.

§ 232.104. SET-BACKS. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may establish reasonable building and set-back lines as provided by Chapter 233 without the limitation period provided by Section 233.004(c).

Added by Acts 2001, 77th Leg., ch. 736, § 1, eff. Sept. 1, 2001.

§ 232.105. DEVELOPER PARTICIPATION CONTRACTS. (a) Without complying with the competitive sealed bidding procedure of Chapter 262, a commissioners court may make a contract with a developer of a subdivision or land in the unincorporated area of the county to construct public improvements, not including a building, related to the development. If the contract does not meet the requirements of this subchapter, Chapter 262 applies to the contract if the contract would otherwise be governed by that chapter.

(b) Under the contract, the developer shall construct the improvements, and the county shall participate in the cost of the improvements.

(c) The contract must establish the limit of participation

by the county at a level not to exceed 30 percent of the total contract price. In addition, the contract may also allow participation by the county at a level not to exceed 100 percent of the total cost for any oversizing of improvements required by the county, including but not limited to increased capacity of improvements to anticipate other future development in the area. The county is liable only for the agreed payment of its share, which shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by an order of the commissioners court.

(d) The developer must execute a performance bond for the construction of the improvements to ensure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code.

(e) In the order adopted by the commissioners court under Subsection (c), the county may include additional safeguards against undue loading of cost, collusion, or fraud.

Added by Acts 2001, 77th Leg., ch. 736, § 1, eff. Sept. 1, 2001.

§ 232.106. CONNECTION OF UTILITIES. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may impose the requirements of Section 232.029 or 232.0291.

Added by Acts 2001, 77th Leg., ch. 736, § 1, eff. Sept. 1, 2001.
Amended by Acts 2005, 79th Leg., ch. 708, § 10, eff. Sept. 1, 2005.

§ 232.107. PROVISIONS CUMULATIVE. The authorities under this subchapter are cumulative of and in addition to the authorities granted under this chapter and all other laws to counties to regulate the subdivision of land.

Added by Acts 2001, 77th Leg., ch. 736, § 1, eff. Sept. 1, 2001.

APPENDIX A-2

Bandera County, Texas

People QuickFacts	Bandera County	Texas
Population, 2005 estimate	19,988	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	13.3%	9.6%
Population, 2000	17,645	20,851,820
Population, percent change, 1990 to 2000	67.1%	22.8%
Persons under 5 years old, percent, 2004	5.3%	8.2%
Persons under 18 years old, percent, 2004	23.1%	27.9%
Persons 65 years old and over, percent, 2004	15.9%	9.9%
Female persons, percent, 2004	50.3%	50.2%
White persons, percent, 2004 (a)	97.1%	83.3%
Black persons, percent, 2004 (a)	0.6%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.9%	0.7%
Asian persons, percent, 2004 (a)	0.3%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.0%	0.1%
Persons reporting two or more races, percent, 2004	1.0%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	16.3%	34.6%
White persons, not Hispanic, percent, 2004	81.3%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	49.5%	49.6%
Foreign born persons, percent, 2000	3.9%	13.9%
Language other than English spoken at home, pct age 5+, 2000	13.5%	31.2%
High school graduates, percent of persons age 25+, 2000	84.8%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	19.4%	23.2%
Persons with a disability, age 5+, 2000	3,438	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	34.3	25.4
Housing units, 2004	9,861	8,846,728
Homeownership rate, 2000	82.9%	63.8%
Housing units in multi-unit structures, percent, 2000	1.0%	24.2%
Median value of owner-occupied housing units, 2000	\$99,000	\$82,500
Households, 2000	7,010	7,393,354
Persons per household, 2000	2.49	2.74
Per capita money income, 1999	\$19,635	\$19,617
Median household income, 2003	\$39,327	\$39,967
Persons below poverty, percent, 2003	12.4%	16.2%
Business QuickFacts	Bandera County	Texas

Private nonfarm establishments, 2003	370	483,945 ¹
Private nonfarm employment, 2003	2,196	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	32.2%	0.3% ¹
Nonemployer establishments, 2003	1,895	1,500,067
Manufacturers shipments, 2002 (\$1000)	NA	310,815,965
Retail sales, 2002 (\$1000)	55,807	228,694,755
Retail sales per capita, 2002	\$2,943	\$10,528
Minority-owned firms, percent of total, 1997	F	23.9%
Women-owned firms, percent of total, 1997	22.3%	25.0%
Housing units authorized by building permits, 2004	0	188,842
Federal spending, 2004 (\$1000)	94,748	141,858,480 ¹
Geography QuickFacts	Bandera County	Texas
Land area, 2000 (square miles)	792	261,797
Persons per square mile, 2000	22.3	79.6
FIPS Code	019	48
Metropolitan or Micropolitan Statistical Area	San Antonio, TX Metro Area	

U.S. Census Bureau**State & County QuickFacts****Bexar County, Texas**

People QuickFacts	Bexar County	Texas
Population, 2005 estimate	1,518,370	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	9.0%	9.6%
Population, 2000	1,392,931	20,851,820
Population, percent change, 1990 to 2000	17.5%	22.8%
Persons under 5 years old, percent, 2004	8.2%	8.2%
Persons under 18 years old, percent, 2004	28.1%	27.9%
Persons 65 years old and over, percent, 2004	10.3%	9.9%
Female persons, percent, 2004	51.2%	50.2%
White persons, percent, 2004 (a)	88.2%	83.3%
Black persons, percent, 2004 (a)	7.4%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	1.1%	0.7%
Asian persons, percent, 2004 (a)	1.9%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.2%	0.1%
Persons reporting two or more races, percent, 2004	1.2%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	56.4%	34.6%
White persons, not Hispanic, percent, 2004	33.9%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	51.2%	49.6%
Foreign born persons, percent, 2000	10.9%	13.9%
Language other than English spoken at home, pct age 5+, 2000	43.2%	31.2%
High school graduates, percent of persons age 25+, 2000	76.9%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	22.7%	23.2%
Persons with a disability, age 5+, 2000	261,387	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	24.0	25.4
Housing units, 2004	560,820	8,846,728
Homeownership rate, 2000	61.2%	63.8%
Housing units in multi-unit structures, percent, 2000	26.9%	24.2%
Median value of owner-occupied housing units, 2000	\$74,100	\$82,500
Households, 2000	488,942	7,393,354
Persons per household, 2000	2.78	2.74
Per capita money income, 1999	\$18,363	\$19,617
Median household income, 2003	\$38,521	\$39,967

	17.6%	16.2%
Persons below poverty, percent, 2003		
	Bexar County	Texas
Business QuickFacts		
Private nonfarm establishments, 2003	30,273	483,945 ¹
Private nonfarm employment, 2003	570,803	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	-0.2%	0.3% ¹
Nonemployer establishments, 2003	84,943	1,500,067
Manufacturers shipments, 2002 (\$1000)	6,289,711	310,815,965
Retail sales, 2002 (\$1000)	15,914,486	228,694,755
Retail sales per capita, 2002	\$11,038	\$10,528
Minority-owned firms, percent of total, 1997	39.9%	23.9%
Women-owned firms, percent of total, 1997	26.0%	25.0%
Housing units authorized by building permits, 2004	13,320	188,842
Federal spending, 2004 (\$1000)	12,574,848	141,858,480 ¹
	Bexar County	Texas
Geography QuickFacts		
Land area, 2000 (square miles)	1,247	261,797
Persons per square mile, 2000	1,117.2	79.6
FIPS Code	029	48
Metropolitan or Micropolitan Statistical Area	San Antonio, TX Metro Area	

1: Includes data not distributed by county.

(a) Includes persons reporting only one race.

(b) Hispanics may be of any race, so also are included in applicable race categories.

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NA: Not available

D: Suppressed to avoid disclosure of confidential information

X: Not applicable

S: Suppressed; does not meet publication standards

Z: Value greater than zero but less than half unit of measure shown

F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Burnet County, Texas

People QuickFacts	Burnet County	Texas
Population, 2005 estimate	41,676	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	22.1%	9.6%
Population, 2000	34,147	20,851,820
Population, percent change, 1990 to 2000	50.6%	22.8%
Persons under 5 years old, percent, 2004	6.0%	8.2%
Persons under 18 years old, percent, 2004	22.6%	27.9%
Persons 65 years old and over, percent, 2004	20.3%	9.9%
Female persons, percent, 2004	51.7%	50.2%
White persons, percent, 2004 (a)	96.3%	83.3%
Black persons, percent, 2004 (a)	1.7%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.7%	0.7%
Asian persons, percent, 2004 (a)	0.4%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	0.9%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	15.7%	34.6%
White persons, not Hispanic, percent, 2004	81.0%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	51.3%	49.6%
Foreign born persons, percent, 2000	5.4%	13.9%
Language other than English spoken at home, pct age 5+, 2000	13.5%	31.2%
High school graduates, percent of persons age 25+, 2000	77.8%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	17.4%	23.2%
Persons with a disability, age 5+, 2000	6,975	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	28.8	25.4
Housing units, 2004	18,129	8,846,728
Homeownership rate, 2000	78.3%	63.8%
Housing units in multi-unit structures, percent, 2000	6.2%	24.2%
Median value of owner-occupied housing units, 2000	\$93,600	\$82,500
Households, 2000	13,133	7,393,354
Persons per household, 2000	2.53	2.74
Per capita money income, 1999	\$18,850	\$19,617
Median household income, 2003	\$40,925	\$39,967

	11.9%	16.2%
	Burnet County	Texas
Persons below poverty, percent, 2003		
Business QuickFacts		
Private nonfarm establishments, 2003	938	483,945 ¹
Private nonfarm employment, 2003	8,000	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	13.1%	0.3% ¹
Nonemployer establishments, 2003	3,411	1,500,067
Manufacturers shipments, 2002 (\$1000)	117,240	310,815,965
Retail sales, 2002 (\$1000)	430,820	228,694,755
Retail sales per capita, 2002	\$11,458	\$10,528
Minority-owned firms, percent of total, 1997	F	23.9%
Women-owned firms, percent of total, 1997	21.6%	25.0%
Housing units authorized by building permits, 2004	686	188,842
Federal spending, 2004 (\$1000)	187,680	141,858,480 ¹
Geography QuickFacts		
	Burnet County	Texas
Land area, 2000 (square miles)	996	261,797
Persons per square mile, 2000	34.3	79.6
FIPS Code	053	48
Metropolitan or Micropolitan Statistical Area	None	

1: Includes data not distributed by county.

- (a) Includes persons reporting only one race.
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 F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Dallas County, Texas

People QuickFacts	Dallas County	Texas
Population, 2005 estimate	2,305,454	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	3.9%	9.6%
Population, 2000	2,218,899	20,851,820
Population, percent change, 1990 to 2000	19.8%	22.8%
Persons under 5 years old, percent, 2004	9.1%	8.2%
Persons under 18 years old, percent, 2004	28.5%	27.9%
Persons 65 years old and over, percent, 2004	8.2%	9.9%
Female persons, percent, 2004	49.7%	50.2%
White persons, percent, 2004 (a)	73.0%	83.3%
Black persons, percent, 2004 (a)	20.8%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.6%	0.7%
Asian persons, percent, 2004 (a)	4.4%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	1.1%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	35.2%	34.6%
White persons, not Hispanic, percent, 2004	38.9%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	45.3%	49.6%
Foreign born persons, percent, 2000	20.9%	13.9%
Language other than English spoken at home, pct age 5+, 2000	32.5%	31.2%
High school graduates, percent of persons age 25+, 2000	75.0%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	27.0%	23.2%
Persons with a disability, age 5+, 2000	392,311	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	26.9	25.4
Housing units, 2004	903,877	8,846,728
Homeownership rate, 2000	52.6%	63.8%
Housing units in multi-unit structures, percent, 2000	39.9%	24.2%
Median value of owner-occupied housing units, 2000	\$92,700	\$82,500
Households, 2000	807,621	7,393,354
Persons per household, 2000	2.71	2.74
Per capita money income, 1999	\$22,603	\$19,617
Median household income, 2003	\$41,147	\$39,967

	Dallas County	Texas
Persons below poverty, percent, 2003	16.9%	16.2%
Business QuickFacts		
Private nonfarm establishments, 2003	62,223	483,945 ¹
Private nonfarm employment, 2003	1,321,071	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	-10.6%	0.3% ¹
Nonemployer establishments, 2003	158,446	1,500,067
Manufacturers shipments, 2002 (\$1000)	32,530,817	310,815,965
Retail sales, 2002 (\$1000)	26,239,828	228,694,755
Retail sales per capita, 2002	\$11,546	\$10,528
Minority-owned firms, percent of total, 1997	22.3%	23.9%
Women-owned firms, percent of total, 1997	25.8%	25.0%
Housing units authorized by building permits, 2004	13,297	188,842
Federal spending, 2004 (\$1000)	12,174,161	141,858,480 ¹
Geography QuickFacts		
Land area, 2000 (square miles)	880	261,797
Persons per square mile, 2000	2,522.6	79.6
FIPS Code	113	48
Metropolitan or Micropolitan Statistical Area	Dallas-Fort Worth-Arlington, TX Metro Area	

1: Includes data not distributed by county.

- (a) Includes persons reporting only one race.
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 F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Comal County, Texas

People QuickFacts	Comal County	Texas
Population, 2005 estimate	96,018	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	23.1%	9.6%
Population, 2000	78,021	20,851,820
Population, percent change, 1990 to 2000	50.5%	22.8%
Persons under 5 years old, percent, 2004	6.3%	8.2%
Persons under 18 years old, percent, 2004	24.1%	27.9%
Persons 65 years old and over, percent, 2004	14.0%	9.9%
Female persons, percent, 2004	50.6%	50.2%
White persons, percent, 2004 (a)	96.6%	83.3%
Black persons, percent, 2004 (a)	1.3%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.6%	0.7%
Asian persons, percent, 2004 (a)	0.6%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.0%	0.1%
Persons reporting two or more races, percent, 2004	0.8%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	23.7%	34.6%
White persons, not Hispanic, percent, 2004	73.6%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	51.5%	49.6%
Foreign born persons, percent, 2000	4.8%	13.9%
Language other than English spoken at home, pct age 5+, 2000	19.6%	31.2%
High school graduates, percent of persons age 25+, 2000	83.9%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	26.2%	23.2%
Persons with a disability, age 5+, 2000	12,937	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	28.2	25.4
Housing units, 2004	38,512	8,846,728
Homeownership rate, 2000	77.2%	63.8%
Housing units in multi-unit structures, percent, 2000	10.9%	24.2%
Median value of owner-occupied housing units, 2000	\$117,000	\$82,500
Households, 2000	29,066	7,393,354
Persons per household, 2000	2.64	2.74
Per capita money income, 1999	\$21,914	\$19,617
Median household income, 2003	\$48,834	\$39,967

	9.9%	16.2%
	Comal County	Texas
Persons below poverty, percent, 2003		
Business QuickFacts		
Private nonfarm establishments, 2003	2,209	483,945 ¹
Private nonfarm employment, 2003	27,541	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	10.3%	0.3% ¹
Nonemployer establishments, 2003	8,151	1,500,067
Manufacturers shipments, 2002 (\$1000)	611,249	310,815,965
Retail sales, 2002 (\$1000)	954,987	228,694,755
Retail sales per capita, 2002	\$11,271	\$10,528
Minority-owned firms, percent of total, 1997	16.6%	23.9%
Women-owned firms, percent of total, 1997	21.7%	25.0%
Housing units authorized by building permits, 2004	1,840	188,842
Federal spending, 2004 (\$1000)	432,938	141,858,480 ¹
Geography QuickFacts		
	Comal County	Texas
Land area, 2000 (square miles)	561	261,797
Persons per square mile, 2000	139.0	79.6
FIPS Code	091	48
Metropolitan or Micropolitan Statistical Area	San Antonio, TX Metro Area	

1: Includes data not distributed by county.

- (a) Includes persons reporting only one race.
 (b) Hispanics may be of any race, so also are included in applicable race categories.

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 F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Denton County, Texas

People QuickFacts	Denton County	Texas
Population, 2005 estimate	554,642	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	28.1%	9.6%
Population, 2000	432,976	20,851,820
Population, percent change, 1990 to 2000	58.2%	22.8%
Persons under 5 years old, percent, 2004	8.0%	8.2%
Persons under 18 years old, percent, 2004	27.3%	27.9%
Persons 65 years old and over, percent, 2004	5.1%	9.9%
Female persons, percent, 2004	50.1%	50.2%
White persons, percent, 2004 (a)	85.5%	83.3%
Black persons, percent, 2004 (a)	6.8%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.6%	0.7%
Asian persons, percent, 2004 (a)	5.4%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	1.6%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	14.9%	34.6%
White persons, not Hispanic, percent, 2004	71.2%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	37.7%	49.6%
Foreign born persons, percent, 2000	9.4%	13.9%
Language other than English spoken at home, pct age 5+, 2000	15.5%	31.2%
High school graduates, percent of persons age 25+, 2000	89.4%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	36.6%	23.2%
Persons with a disability, age 5+, 2000	47,873	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	28.2	25.4
Housing units, 2004	199,418	8,846,728
Homeownership rate, 2000	64.4%	63.8%
Housing units in multi-unit structures, percent, 2000	27.2%	24.2%
Median value of owner-occupied housing units, 2000	\$133,200	\$82,500
Households, 2000	158,903	7,393,354
Persons per household, 2000	2.67	2.74
Per capita money income, 1999	\$26,895	\$19,617
Median household income, 2003	\$61,356	\$39,967

	8.3%	16.2%
	Denton County	Texas
Persons below poverty, percent, 2003		
Business QuickFacts		
Private nonfarm establishments, 2003	9,003	483,945 ¹
Private nonfarm employment, 2003	124,735	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	12.8%	0.3% ¹
Nonemployer establishments, 2003	37,744	1,500,067
Manufacturers shipments, 2002 (\$1000)	2,690,448	310,815,965
Retail sales, 2002 (\$1000)	4,557,662	228,694,755
Retail sales per capita, 2002	\$9,336	\$10,528
Minority-owned firms, percent of total, 1997	12.1%	23.9%
Women-owned firms, percent of total, 1997	28.0%	25.0%
Housing units authorized by building permits, 2004	5,239	188,842
Federal spending, 2004 (\$1000)	1,057,753	141,858,480 ¹
	Denton County	Texas
Geography QuickFacts		
Land area, 2000 (square miles)	889	261,797
Persons per square mile, 2000	487.3	79.6
FIPS Code	121	48
Metropolitan or Micropolitan Statistical Area	Dallas-Fort Worth- Arlington, TX Metro Area	

1: Includes data not distributed by county.

(a) Includes persons reporting only one race.

(b) Hispanics may be of any race, so also are included in applicable race categories.

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F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

El Paso County, Texas

People QuickFacts	El Paso County	Texas
Population, 2005 estimate	721,598	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	6.2%	9.6%
Population, 2000	679,622	20,851,820
Population, percent change, 1990 to 2000	14.9%	22.8%
Persons under 5 years old, percent, 2004	9.5%	8.2%
Persons under 18 years old, percent, 2004	31.5%	27.9%
Persons 65 years old and over, percent, 2004	10.1%	9.9%
Female persons, percent, 2004	51.9%	50.2%
White persons, percent, 2004 (a)	93.5%	83.3%
Black persons, percent, 2004 (a)	3.3%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	1.1%	0.7%
Asian persons, percent, 2004 (a)	1.1%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.2%	0.1%
Persons reporting two or more races, percent, 2004	0.8%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	80.7%	34.6%
White persons, not Hispanic, percent, 2004	15.1%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	55.2%	49.6%
Foreign born persons, percent, 2000	27.4%	13.9%
Language other than English spoken at home, pct age 5+, 2000	73.3%	31.2%
High school graduates, percent of persons age 25+, 2000	65.8%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	16.6%	23.2%
Persons with a disability, age 5+, 2000	122,545	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	22.7	25.4
Housing units, 2004	240,600	8,846,728
Homeownership rate, 2000	63.6%	63.8%
Housing units in multi-unit structures, percent, 2000	24.3%	24.2%
Median value of owner-occupied housing units, 2000	\$69,600	\$82,500
Households, 2000	210,022	7,393,354
Persons per household, 2000	3.18	2.74
Per capita money income, 1999	\$13,421	\$19,617
Median household income, 2003	\$31,086	\$39,967

	25.7%	16.2%
	El Paso County	Texas
Persons below poverty, percent, 2003		
Business QuickFacts		
Private nonfarm establishments, 2003	12,355	483,945 ¹
Private nonfarm employment, 2003	194,948	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	-2.5%	0.3% ¹
Nonemployer establishments, 2003	40,772	1,500,067
Manufacturers shipments, 2002 (\$1000)	8,216,226	310,815,965
Retail sales, 2002 (\$1000)	5,807,166	228,694,755
Retail sales per capita, 2002	\$8,373	\$10,528
Minority-owned firms, percent of total, 1997	56.6%	23.9%
Women-owned firms, percent of total, 1997	22.4%	25.0%
Housing units authorized by building permits, 2004	3,942	188,842
Federal spending, 2004 (\$1000)	4,446,264	141,858,480 ¹
Geography QuickFacts		
	El Paso County	Texas
Land area, 2000 (square miles)	1,013	261,797
Persons per square mile, 2000	670.8	79.6
FIPS Code	141	48
Metropolitan or Micropolitan Statistical Area	El Paso, TX Metro Area	

1: Includes data not distributed by county.

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 F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Fort Bend County, Texas

People QuickFacts	Fort Bend County	Texas
Population, 2005 estimate	463,650	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	30.8%	9.6%
Population, 2000	354,452	20,851,820
Population, percent change, 1990 to 2000	57.2%	22.8%
Persons under 5 years old, percent, 2004	6.8%	8.2%
Persons under 18 years old, percent, 2004	28.2%	27.9%
Persons 65 years old and over, percent, 2004	6.0%	9.9%
Female persons, percent, 2004	50.1%	50.2%
White persons, percent, 2004 (a)	63.1%	83.3%
Black persons, percent, 2004 (a)	20.7%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.4%	0.7%
Asian persons, percent, 2004 (a)	14.5%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	1.3%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	22.2%	34.6%
White persons, not Hispanic, percent, 2004	41.7%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	52.0%	49.6%
Foreign born persons, percent, 2000	18.3%	13.9%
Language other than English spoken at home, pct age 5+, 2000	30.7%	31.2%
High school graduates, percent of persons age 25+, 2000	84.3%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	36.9%	23.2%
Persons with a disability, age 5+, 2000	46,724	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	32.3	25.4
Housing units, 2004	131,840	8,846,728
Homeownership rate, 2000	80.8%	63.8%
Housing units in multi-unit structures, percent, 2000	9.3%	24.2%
Median value of owner-occupied housing units, 2000	\$115,100	\$82,500
Households, 2000	110,915	7,393,354
Persons per household, 2000	3.14	2.74
Per capita money income, 1999	\$24,985	\$19,617
Median household income, 2003	\$64,928	\$39,967

	8.4%	16.2%
Persons below poverty, percent, 2003		
	Fort Bend County	Texas
Business QuickFacts		
Private nonfarm establishments, 2003	6,783	483,945 ¹
Private nonfarm employment, 2003	87,044	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	10.7%	0.3% ¹
Nonemployer establishments, 2003	31,673	1,500,067
Manufacturers shipments, 2002 (\$1000)	2,620,576	310,815,965
Retail sales, 2002 (\$1000)	3,384,276	228,694,755
Retail sales per capita, 2002	\$8,486	\$10,528
Minority-owned firms, percent of total, 1997	38.4%	23.9%
Women-owned firms, percent of total, 1997	24.1%	25.0%
Housing units authorized by building permits, 2004	4,152	188,842
Federal spending, 2004 (\$1000)	882,588	141,858,480 ¹
	Fort Bend County	Texas
Geography QuickFacts		
Land area, 2000 (square miles)	875	261,797
Persons per square mile, 2000	405.3	79.6
FIPS Code	157	48
Metropolitan or Micropolitan Statistical Area	Houston-Sugar Land-Baytown, TX Metro Area	

1: Includes data not distributed by county.

- (a) Includes persons reporting only one race.
 (b) Hispanics may be of any race, so also are included in applicable race categories.

FN: Footnote on this item for this area in place of data
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 D: Suppressed to avoid disclosure of confidential information
 X: Not applicable
 S: Suppressed; does not meet publication standards
 Z: Value greater than zero but less than half unit of measure shown
 F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

Last Revised: Thursday, 08-Jun-2006 09:35:09 EDT

U.S. Census Bureau

State & County QuickFacts

Guadalupe County, Texas

People QuickFacts	Guadalupe County	Texas
Population, 2005 estimate	103,032	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	15.7%	9.6%
Population, 2000	89,023	20,851,820
Population, percent change, 1990 to 2000	37.2%	22.8%
Persons under 5 years old, percent, 2004	6.4%	8.2%
Persons under 18 years old, percent, 2004	26.3%	27.9%
Persons 65 years old and over, percent, 2004	11.6%	9.9%
Female persons, percent, 2004	50.7%	50.2%
White persons, percent, 2004 (a)	91.7%	83.3%
Black persons, percent, 2004 (a)	5.4%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.7%	0.7%
Asian persons, percent, 2004 (a)	1.0%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.2%	0.1%
Persons reporting two or more races, percent, 2004	1.1%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	34.0%	34.6%
White persons, not Hispanic, percent, 2004	58.8%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	51.1%	49.6%
Foreign born persons, percent, 2000	6.5%	13.9%
Language other than English spoken at home, pct age 5+, 2000	26.8%	31.2%
High school graduates, percent of persons age 25+, 2000	78.1%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	19.1%	23.2%
Persons with a disability, age 5+, 2000	15,464	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	24.8	25.4
Housing units, 2004	37,002	8,846,728
Homeownership rate, 2000	77.0%	63.8%
Housing units in multi-unit structures, percent, 2000	8.4%	24.2%
Median value of owner-occupied housing units, 2000	\$91,400	\$82,500
Households, 2000	30,900	7,393,354
Persons per household, 2000	2.83	2.74
Per capita money income, 1999	\$18,430	\$19,617
Median household income, 2003	\$45,582	\$39,967

	12.1%	16.2%
	Guadalupe County	Texas
Persons below poverty, percent, 2003		
Business QuickFacts		
Private nonfarm establishments, 2003	1,640	483,945 ¹
Private nonfarm employment, 2003	23,112	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	20.9%	0.3% ¹
Nonemployer establishments, 2003	5,920	1,500,067
Manufacturers shipments, 2002 (\$1000)	1,547,436	310,815,965
Retail sales, 2002 (\$1000)	755,259	228,694,755
Retail sales per capita, 2002	\$8,007	\$10,528
Minority-owned firms, percent of total, 1997	21.8%	23.9%
Women-owned firms, percent of total, 1997	16.8%	25.0%
Housing units authorized by building permits, 2004	1,552	188,842
Federal spending, 2004 (\$1000)	472,048	141,858,480 ¹
Geography QuickFacts		
	Guadalupe County	Texas
Land area, 2000 (square miles)	711	261,797
Persons per square mile, 2000	125.2	79.6
FIPS Code	187	48
Metropolitan or Micropolitan Statistical Area	San Antonio, TX Metro Area	

1: Includes data not distributed by county.

(a) Includes persons reporting only one race.

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F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Harris County, Texas

People QuickFacts	Harris County	Texas
Population, 2005 estimate	3,693,050	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	8.6%	9.6%
Population, 2000	3,400,578	20,851,820
Population, percent change, 1990 to 2000	20.7%	22.8%
Persons under 5 years old, percent, 2004	8.8%	8.2%
Persons under 18 years old, percent, 2004	29.0%	27.9%
Persons 65 years old and over, percent, 2004	7.5%	9.9%
Female persons, percent, 2004	50.0%	50.2%
White persons, percent, 2004 (a)	74.3%	83.3%
Black persons, percent, 2004 (a)	18.5%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.6%	0.7%
Asian persons, percent, 2004 (a)	5.5%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	1.0%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	36.7%	34.6%
White persons, not Hispanic, percent, 2004	38.9%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	47.8%	49.6%
Foreign born persons, percent, 2000	22.2%	13.9%
Language other than English spoken at home, pct age 5+, 2000	36.2%	31.2%
High school graduates, percent of persons age 25+, 2000	74.6%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	26.9%	23.2%
Persons with a disability, age 5+, 2000	573,025	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	28.1	25.4
Housing units, 2004	1,422,519	8,846,728
Homeownership rate, 2000	55.3%	63.8%
Housing units in multi-unit structures, percent, 2000	37.1%	24.2%
Median value of owner-occupied housing units, 2000	\$87,000	\$82,500
Households, 2000	1,205,516	7,393,354
Persons per household, 2000	2.79	2.74
Per capita money income, 1999	\$21,435	\$19,617
Median household income, 2003	\$42,112	\$39,967

	16.2%	16.2%
	Harris County	Texas
Persons below poverty, percent, 2003		
Business QuickFacts		
Private nonfarm establishments, 2003	85,528	483,945 ¹
Private nonfarm employment, 2003	1,707,646	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	4.1%	0.3% ¹
Nonemployer establishments, 2003	255,222	1,500,067
Manufacturers shipments, 2002 (\$1000)	67,059,703	310,815,965
Retail sales, 2002 (\$1000)	39,358,036	228,694,755
Retail sales per capita, 2002	\$11,119	\$10,528
Minority-owned firms, percent of total, 1997	29.0%	23.9%
Women-owned firms, percent of total, 1997	24.0%	25.0%
Housing units authorized by building permits, 2004	36,395	188,842
Federal spending, 2004 (\$1000)	15,798,626	141,858,480 ¹
Geography QuickFacts		
	Harris County	Texas
Land area, 2000 (square miles)	1,729	261,797
Persons per square mile, 2000	1,967.0	79.6
FIPS Code	201	48
Metropolitan or Micropolitan Statistical Area	Houston-Sugar Land-Baytown, TX Metro Area	

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 F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau**State & County QuickFacts****Hays County, Texas**

People QuickFacts	Hays County	Texas
Population, 2005 estimate	124,432	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	27.5%	9.6%
Population, 2000	97,589	20,851,820
Population, percent change, 1990 to 2000	48.7%	22.8%
Persons under 5 years old, percent, 2004	6.7%	8.2%
Persons under 18 years old, percent, 2004	23.6%	27.9%
Persons 65 years old and over, percent, 2004	7.7%	9.9%
Female persons, percent, 2004	49.7%	50.2%
White persons, percent, 2004 (a)	92.9%	83.3%
Black persons, percent, 2004 (a)	4.1%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.8%	0.7%
Asian persons, percent, 2004 (a)	1.0%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.2%	0.1%
Persons reporting two or more races, percent, 2004	1.0%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	31.2%	34.6%
White persons, not Hispanic, percent, 2004	62.8%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	41.4%	49.6%
Foreign born persons, percent, 2000	5.6%	13.9%
Language other than English spoken at home, pct age 5+, 2000	23.1%	31.2%
High school graduates, percent of persons age 25+, 2000	84.7%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	31.3%	23.2%
Persons with a disability, age 5+, 2000	13,219	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	28.0	25.4
Housing units, 2004	42,338	8,846,728
Homeownership rate, 2000	64.8%	63.8%
Housing units in multi-unit structures, percent, 2000	23.1%	24.2%
Median value of owner-occupied housing units, 2000	\$129,400	\$82,500
Households, 2000	33,410	7,393,354
Persons per household, 2000	2.69	2.74
Per capita money income, 1999	\$19,931	\$19,617
Median household income, 2003	\$45,822	\$39,967

	12.4%	16.2%
Business QuickFacts	Hays County	Texas
Persons below poverty, percent, 2003		
Private nonfarm establishments, 2003	2,519	483,945 ¹
Private nonfarm employment, 2003	29,176	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	21.4%	0.3% ¹
Nonemployer establishments, 2003	8,894	1,500,067
Manufacturers shipments, 2002 (\$1000)	571,423	310,815,965
Retail sales, 2002 (\$1000)	1,246,255	228,694,755
Retail sales per capita, 2002	\$11,191	\$10,528
Minority-owned firms, percent of total, 1997	14.5%	23.9%
Women-owned firms, percent of total, 1997	25.8%	25.0%
Housing units authorized by building permits, 2004	2,578	188,842
Federal spending, 2004 (\$1000)	435,282	141,858,480 ¹
Geography QuickFacts	Hays County	Texas
Land area, 2000 (square miles)	678	261,797
Persons per square mile, 2000	144.0	79.6
FIPS Code	209	48
Metropolitan or Micropolitan Statistical Area	Austin- Round Rock, TX Metro Area	

1: Includes data not distributed by county.

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 F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Kaufman County, Texas

People QuickFacts	Kaufman County	Texas
Population, 2005 estimate	89,129	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	25.0%	9.6%
Population, 2000	71,313	20,851,820
Population, percent change, 1990 to 2000	36.6%	22.8%
Persons under 5 years old, percent, 2004	7.2%	8.2%
Persons under 18 years old, percent, 2004	27.2%	27.9%
Persons 65 years old and over, percent, 2004	9.7%	9.9%
Female persons, percent, 2004	50.4%	50.2%
White persons, percent, 2004 (a)	87.4%	83.3%
Black persons, percent, 2004 (a)	10.2%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.6%	0.7%
Asian persons, percent, 2004 (a)	0.7%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	1.0%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	13.6%	34.6%
White persons, not Hispanic, percent, 2004	74.2%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	53.4%	49.6%
Foreign born persons, percent, 2000	5.7%	13.9%
Language other than English spoken at home, pct age 5+, 2000	11.0%	31.2%
High school graduates, percent of persons age 25+, 2000	74.5%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	12.3%	23.2%
Persons with a disability, age 5+, 2000	12,728	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	35.6	25.4
Housing units, 2004	28,938	8,846,728
Homeownership rate, 2000	79.2%	63.8%
Housing units in multi-unit structures, percent, 2000	7.1%	24.2%
Median value of owner-occupied housing units, 2000	\$85,700	\$82,500
Households, 2000	24,367	7,393,354
Persons per household, 2000	2.87	2.74
Per capita money income, 1999	\$18,827	\$19,617
Median household income, 2003	\$46,085	\$39,967

	11.5%	16.2%
	Kaufman County	Texas
Persons below poverty, percent, 2003		
Business QuickFacts		
Private nonfarm establishments, 2003	1,554	483,945 ¹
Private nonfarm employment, 2003	18,862	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	-7.1%	0.3% ¹
Nonemployer establishments, 2003	7,524	1,500,067
Manufacturers shipments, 2002 (\$1000)	653,359	310,815,965
Retail sales, 2002 (\$1000)	860,887	228,694,755
Retail sales per capita, 2002	\$11,028	\$10,528
Minority-owned firms, percent of total, 1997	4.1%	23.9%
Women-owned firms, percent of total, 1997	19.0%	25.0%
Housing units authorized by building permits, 2004	799	188,842
Federal spending, 2004 (\$1000)	410,005	141,858,480 ¹
Geography QuickFacts		
	Kaufman County	Texas
Land area, 2000 (square miles)	786	261,797
Persons per square mile, 2000	90.7	79.6
FIPS Code	257	48
Metropolitan or Micropolitan Statistical Area	Dallas-Fort Worth-Arlington, TX Metro Area	

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Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Kendall County, Texas

People QuickFacts	Kendall County	Texas
Population, 2005 estimate	28,607	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	20.5%	9.6%
Population, 2000	23,743	20,851,820
Population, percent change, 1990 to 2000	62.7%	22.8%
Persons under 5 years old, percent, 2004	6.0%	8.2%
Persons under 18 years old, percent, 2004	25.0%	27.9%
Persons 65 years old and over, percent, 2004	13.5%	9.9%
Female persons, percent, 2004	50.7%	50.2%
White persons, percent, 2004 (a)	97.7%	83.3%
Black persons, percent, 2004 (a)	0.8%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.6%	0.7%
Asian persons, percent, 2004 (a)	0.4%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	0.5%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	18.8%	34.6%
White persons, not Hispanic, percent, 2004	79.5%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	50.3%	49.6%
Foreign born persons, percent, 2000	5.6%	13.9%
Language other than English spoken at home, pct age 5+, 2000	17.0%	31.2%
High school graduates, percent of persons age 25+, 2000	85.4%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	31.4%	23.2%
Persons with a disability, age 5+, 2000	3,587	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	29.0	25.4
Housing units, 2004	11,272	8,846,728
Homeownership rate, 2000	79.5%	63.8%
Housing units in multi-unit structures, percent, 2000	6.3%	24.2%
Median value of owner-occupied housing units, 2000	\$139,900	\$82,500
Households, 2000	8,613	7,393,354
Persons per household, 2000	2.70	2.74
Per capita money income, 1999	\$24,619	\$19,617
Median household income, 2003	\$55,207	\$39,967

	Kendall County	Texas
Persons below poverty, percent, 2003	9.2%	16.2%
Business QuickFacts		
Private nonfarm establishments, 2003	876	483,945 ¹
Private nonfarm employment, 2003	7,737	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	24.8%	0.3% ¹
Nonemployer establishments, 2003	3,431	1,500,067
Manufacturers shipments, 2002 (\$1000)	156,708	310,815,965
Retail sales, 2002 (\$1000)	443,921	228,694,755
Retail sales per capita, 2002	\$17,532	\$10,528
Minority-owned firms, percent of total, 1997	F	23.9%
Women-owned firms, percent of total, 1997	18.6%	25.0%
Housing units authorized by building permits, 2004	599	188,842
Federal spending, 2004 (\$1000)	167,521	141,858,480 ¹
Geography QuickFacts		
Land area, 2000 (square miles)	662	261,797
Persons per square mile, 2000	35.8	79.6
FIPS Code	259	48
Metropolitan or Micropolitan Statistical Area	San Antonio, TX Metro Area	

1: Includes data not distributed by county.

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Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Rockwall County, Texas

People QuickFacts	Rockwall County	Texas
Population, 2005 estimate	62,944	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	46.1%	9.6%
Population, 2000	43,080	20,851,820
Population, percent change, 1990 to 2000	68.3%	22.8%
Persons under 5 years old, percent, 2004	6.9%	8.2%
Persons under 18 years old, percent, 2004	27.2%	27.9%
Persons 65 years old and over, percent, 2004	8.2%	9.9%
Female persons, percent, 2004	49.7%	50.2%
White persons, percent, 2004 (a)	92.1%	83.3%
Black persons, percent, 2004 (a)	4.6%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.5%	0.7%
Asian persons, percent, 2004 (a)	1.9%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	0.9%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	13.0%	34.6%
White persons, not Hispanic, percent, 2004	79.5%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	46.6%	49.6%
Foreign born persons, percent, 2000	7.8%	13.9%
Language other than English spoken at home, pct age 5+, 2000	12.6%	31.2%
High school graduates, percent of persons age 25+, 2000	86.7%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	32.7%	23.2%
Persons with a disability, age 5+, 2000	5,642	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	32.0	25.4
Housing units, 2004	20,532	8,846,728
Homeownership rate, 2000	82.7%	63.8%
Housing units in multi-unit structures, percent, 2000	9.6%	24.2%
Median value of owner-occupied housing units, 2000	\$147,100	\$82,500
Households, 2000	14,530	7,393,354
Persons per household, 2000	2.92	2.74
Per capita money income, 1999	\$28,573	\$19,617
Median household income, 2003	\$69,083	\$39,967

	6.8%	16.2%
Persons below poverty, percent, 2003		
Business QuickFacts	Rockwall County	Texas
Private nonfarm establishments, 2003	1,226	483,945 ¹
Private nonfarm employment, 2003	12,887	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	17.9%	0.3% ¹
Nonemployer establishments, 2003	5,524	1,500,067
Manufacturers shipments, 2002 (\$1000)	D	310,815,965
Retail sales, 2002 (\$1000)	585,609	228,694,755
Retail sales per capita, 2002	\$11,485	\$10,528
Minority-owned firms, percent of total, 1997	F	23.9%
Women-owned firms, percent of total, 1997	20.5%	25.0%
Housing units authorized by building permits, 2004	1,598	188,842
Federal spending, 2004 (\$1000)	206,676	141,858,480 ¹
Geography QuickFacts	Rockwall County	Texas
Land area, 2000 (square miles)	129	261,797
Persons per square mile, 2000	334.5	79.6
FIPS Code	397	48
Metropolitan or Micropolitan Statistical Area	Dallas-Fort Worth-Arlington, TX Metro Area	

1: Includes data not distributed by county.

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Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

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U.S. Census Bureau

State & County QuickFacts

Travis County, Texas

People QuickFacts	Travis County	Texas
Population, 2005 estimate	888,185	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	9.3%	9.6%
Population, 2000	812,280	20,851,820
Population, percent change, 1990 to 2000	40.9%	22.8%
Persons under 5 years old, percent, 2004	8.2%	8.2%
Persons under 18 years old, percent, 2004	24.7%	27.9%
Persons 65 years old and over, percent, 2004	6.9%	9.9%
Female persons, percent, 2004	48.4%	50.2%
White persons, percent, 2004 (a)	83.4%	83.3%
Black persons, percent, 2004 (a)	9.1%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.7%	0.7%
Asian persons, percent, 2004 (a)	5.3%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.1%	0.1%
Persons reporting two or more races, percent, 2004	1.4%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	31.3%	34.6%
White persons, not Hispanic, percent, 2004	53.5%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	37.6%	49.6%
Foreign born persons, percent, 2000	15.1%	13.9%
Language other than English spoken at home, pct age 5+, 2000	28.7%	31.2%
High school graduates, percent of persons age 25+, 2000	84.7%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	40.6%	23.2%
Persons with a disability, age 5+, 2000	111,514	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	23.6	25.4
Housing units, 2004	381,542	8,846,728
Homeownership rate, 2000	51.4%	63.8%
Housing units in multi-unit structures, percent, 2000	40.0%	24.2%
Median value of owner-occupied housing units, 2000	\$134,700	\$82,500
Households, 2000	320,766	7,393,354
Persons per household, 2000	2.47	2.74
Per capita money income, 1999	\$25,883	\$19,617
Median household income, 2003	\$45,245	\$39,967

	13.9%	16.2%
Persons below poverty, percent, 2003		
Business QuickFacts	Travis County	Texas
Private nonfarm establishments, 2003	24,500	483,945 ¹
Private nonfarm employment, 2003	415,165	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	-6.9%	0.3% ¹
Nonemployer establishments, 2003	64,989	1,500,067
Manufacturers shipments, 2002 (\$1000)	21,943,746	310,815,965
Retail sales, 2002 (\$1000)	10,544,294	228,694,755
Retail sales per capita, 2002	\$12,469	\$10,528
Minority-owned firms, percent of total, 1997	19.0%	23.9%
Women-owned firms, percent of total, 1997	26.9%	25.0%
Housing units authorized by building permits, 2004	10,658	188,842
Federal spending, 2004 (\$1000)	7,849,727	141,858,480 ¹
Geography QuickFacts	Travis County	Texas
Land area, 2000 (square miles)	989	261,797
Persons per square mile, 2000	821.1	79.6
FIPS Code	453	48
Metropolitan or Micropolitan Statistical Area	Austin- Round Rock, TX Metro Area	

1: Includes data not distributed by county.

- (a) Includes persons reporting only one race.
 (b) Hispanics may be of any race, so also are included in applicable race categories.

FN: Footnote on this item for this area in place of data
 NA: Not available
 D: Suppressed to avoid disclosure of confidential information
 X: Not applicable
 S: Suppressed; does not meet publication standards
 Z: Value greater than zero but less than half unit of measure shown
 F: Fewer than 100 firms

Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

Last Revised: Thursday, 08-Jun-2006 09:35:26 EDT

U.S. Census Bureau

State & County QuickFacts

Waller County, Texas

People QuickFacts	Waller County	Texas
Population, 2005 estimate	34,821	22,859,968
Population, percent change, April 1, 2000 to July 1, 2005	6.6%	9.6%
Population, 2000	32,663	20,851,820
Population, percent change, 1990 to 2000	39.7%	22.8%
Persons under 5 years old, percent, 2004	7.4%	8.2%
Persons under 18 years old, percent, 2004	25.2%	27.9%
Persons 65 years old and over, percent, 2004	9.5%	9.9%
Female persons, percent, 2004	50.3%	50.2%
White persons, percent, 2004 (a)	71.2%	83.3%
Black persons, percent, 2004 (a)	27.0%	11.7%
American Indian and Alaska Native persons, percent, 2004 (a)	0.6%	0.7%
Asian persons, percent, 2004 (a)	0.6%	3.2%
Native Hawaiian and Other Pacific Islander, percent, 2004 (a)	0.0%	0.1%
Persons reporting two or more races, percent, 2004	0.6%	1.0%
Persons of Hispanic or Latino origin, percent, 2004 (b)	21.3%	34.6%
White persons, not Hispanic, percent, 2004	50.8%	49.8%
Living in same house in 1995 and 2000, pct age 5+, 2000	48.4%	49.6%
Foreign born persons, percent, 2000	9.4%	13.9%
Language other than English spoken at home, pct age 5+, 2000	18.1%	31.2%
High school graduates, percent of persons age 25+, 2000	73.9%	75.7%
Bachelor's degree or higher, pct of persons age 25+, 2000	16.8%	23.2%
Persons with a disability, age 5+, 2000	5,914	3,605,542
Mean travel time to work (minutes), workers age 16+, 2000	32.3	25.4
Housing units, 2004	13,261	8,846,728
Homeownership rate, 2000	72.5%	63.8%
Housing units in multi-unit structures, percent, 2000	10.5%	24.2%
Median value of owner-occupied housing units, 2000	\$84,700	\$82,500
Households, 2000	10,557	7,393,354
Persons per household, 2000	2.79	2.74
Per capita money income, 1999	\$16,338	\$19,617
Median household income, 2003	\$38,068	\$39,967

	17.5%	16.2%
Persons below poverty, percent, 2003		
Business QuickFacts	Waller County	Texas
Private nonfarm establishments, 2003	925	483,945 ¹
Private nonfarm employment, 2003	12,109	8,051,148 ¹
Private nonfarm employment, percent change 2000-2003	64.6%	0.3% ¹
Nonemployer establishments, 2003	6,043	1,500,067
Manufacturers shipments, 2002 (\$1000)	403,868	310,815,965
Retail sales, 2002 (\$1000)	771,930	228,694,755
Retail sales per capita, 2002	\$22,631	\$10,528
Minority-owned firms, percent of total, 1997	37.8%	23.9%
Women-owned firms, percent of total, 1997	34.3%	25.0%
Housing units authorized by building permits, 2004	213	188,842
Federal spending, 2004 (\$1000)	148,608	141,858,480 ¹
Geography QuickFacts	Waller County	Texas
Land area, 2000 (square miles)	514	261,797
Persons per square mile, 2000	63.6	79.6
FIPS Code	473	48
Metropolitan or Micropolitan Statistical Area	Houston-Sugar Land-Baytown, TX Metro Area	

1: Includes data not distributed by county.

(a) Includes persons reporting only one race.
 (b) Hispanics may be of any race, so also are included in applicable race categories.

FN: Footnote on this item for this area in place of data
 NA: Not available
 D: Suppressed to avoid disclosure of confidential information
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Source U.S. Census Bureau: State and County QuickFacts. Data derived from Population Estimates, 2000 Census of Population and Housing, 1990 Census of Population and Housing, Small Area Income and Poverty Estimates, County Business Patterns, 1997 Economic Census, Minority- and Women-Owned Business, Building Permits, Consolidated Federal Funds Report, 1997 Census of Governments

Last Revised: Thursday, 08-Jun-2006 09:35:27 EDT

APPENDIX A-3

APPENDIX A-3
Sample List of Bills Related to County Authority
79th Regular Session of the Texas Legislature

House Bill 281 (Hope, W. Smith) - Relating to the authority of certain counties to apply a county fire code to certain buildings.

House Bill 467 (Bailey, et al/Gallegos) - Relating to the financing of water and sewer programs in disadvantaged areas.

House Bill 477 [(Casteel) companion to SB 142] - Relating to the authority of a county to regulate land development after a local option election.

House Bill 653 [(Casteel) companion to SB 141] - Relating to the regulation of the subdivision of land under the jurisdiction of counties.

House Bill 996 [(Geren) companion to SB 343] - Relating to county authority to regulate the placement of water wells in unincorporated areas of the county; providing a penalty.

House Bill 1727 (Leibowitz) - Relating to zoning regulations in certain unincorporated areas of a county; authorizing a tax and providing penalties.

House Bill 2732 [(Flores) companion to SB 1442] - Relating to platting requirements for certain residential subdivisions in the unincorporated area of a county.

Senate Bill 141 [(Wentworth) companion to HB 653] - Relating to the regulation of the subdivision of land under the jurisdiction of counties.

Senate Bill 142 [(Wentworth) companion to HB 477] - Relating to the authority of a county to regulate land development after a local option election.

Senate Bill 343 [(Brimer/Geren) companion to HB 996] - Relating to the regulation of the placement of water wells and the installation and maintenance of well pumps and equipment and to the performance of certain electrical work; providing a penalty.

Senate Bill 425 (Hinojosa, et al/Luna, et al) - Relating to subdivision platting requirements and assistance for certain counties near an international border.

Senate Bill 684 (Lucio, et al/Gonzales) - Relating to authorizing certain counties and municipalities to regulate land development; providing a penalty.

Senate Bill 1238 (Madla/Menendez) - Relating to the creation of a public nuisance by the failure to properly maintain a drainage easement.

Senate Bill 1296 (Deuell) - Relating to development regulations for certain unincorporated areas associated with the watersheds of Cedar Creek Lake, the Trinity River, and the East Fork of the Trinity River; providing a penalty.

Senate Bill 1430 (Madla) - Relating to the subdivision of land in the unincorporated area of certain counties.

APPENDIX A-4

Amend CSSB 142 by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 232, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REGULATION OF LAND DEVELOPMENT

Sec. 232.151. DEFINITIONS. In this subchapter:

(1) "Agriculture" means:

(A) cultivating the soil to produce crops for human food, animal feed, seed for planting, or the production of fibers;

(B) practicing floriculture, viticulture, silviculture, or horticulture;

(C) raising, feeding, or keeping animals for breeding purposes or for the production of food, fiber, leather, pelts, or other tangible products having commercial value;

(D) planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in a governmental program or normal crop or livestock rotation procedure; or

(E) wildlife management.

(2) "Agricultural use" means use or activity involving agriculture.

Sec. 232.152. SCOPE OF REGULATORY AUTHORITY. (a) The commissioners court of a county that is granted authority in accordance with this subchapter may regulate, by order, land development in the unincorporated area of the county by:

(1) requiring a limited fire suppression system that requires a developer to construct:

(A) for a subdivision of fewer than 50 houses, 2,500 gallons of storage; or

(B) for a subdivision of 50 or more houses, 2,500 gallons of storage with a centralized water system or 5,000 gallons of storage;

(2) requiring a buffer zone between the land used for a purpose specified by this subdivision and residential areas as follows:

(A) at least 1,000 feet for heavy industrial or

quarry use;

(B) at least 750 feet for light industrial use;

and

(C) at least 500 feet for commercial or other

business use; or

(3) requiring a developer, before the county approves a plat filed by the developer, to:

(A) contract with an engineer licensed under Chapter 1001, Occupations Code, and specializing in civil engineering to determine the off-site roadway needs of the subdivision or other development and the costs of providing the necessary off-site roadway improvements attributable to the subdivision or other development; and

(B) provide for the necessary off-site roadway improvements attributable to the subdivision or other development, as determined by the engineer under Paragraph (A).

(b) Any contribution from a developer required to be provided for necessary off-site roadway improvements must be limited to the developer's portion of the costs required for the off-site roadway improvements that are roughly proportionate to the attributable increased off-site roadway needs of the county as a result of the proposed development, as determined by the engineer under Subsection (a)(3)(A).

(c) Subsection (a)(2) does not authorize a county to adopt zoning regulations.

(d) A county regulation under this subchapter does not apply to land used for an activity described by Section 81.051, Natural Resources Code, or to an interstate gas pipeline facility as defined by 49 U.S.C. Section 60101.

(e) A county regulation under this subchapter, other than a regulation requiring a buffer zone under Subsection (a)(2), does not apply to a tract of land used for a single-family residence that is located outside the boundaries of a platted subdivision.

(f) A county regulation under this subchapter does not apply to:

(1) a platted residential subdivision in existence on the date the regulation takes effect;

- (2) a tract of land devoted to agricultural use; or
- (3) an activity or a structure or appurtenance on a tract of land devoted to agricultural use.

Sec. 232.153. ELECTION TO GRANT REGULATORY AUTHORITY. The commissioners court of a county may order and hold an election in the county on the question of granting the commissioners court the authority to regulate land development in the unincorporated area of the county.

Sec. 232.154. BALLOT PROPOSITION. For an election under this subchapter, the ballot shall be prepared to permit voting for or against the proposition: "Granting (name of county) the authority to regulate land development in the unincorporated area of the county."

Sec. 232.155. EFFECT OF ELECTION. If a majority of the votes received on the question at the election approve the grant of authority, the commissioners court of the county may adopt a regulation under this subchapter.

SECTION 2. The heading to Chapter 232, Local Government Code, is amended to read as follows:

CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS
AND PROPERTY DEVELOPMENT

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

APPENDIX B

APPENDIX B-1

AN ACT

relating to creating a TexasOnline project concerning grant assistance provided by state agencies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (1), Section 2055.001, Government Code, is amended to read as follows:

(1) "Board," "department," "electronic government project," "executive director," "local government," "major information resources project," "quality assurance team," and "TexasOnline" have the meanings assigned by Section 2054.003.

SECTION 2. Chapter 2055, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. GRANTS ASSISTANCE PROJECT

Sec. 2055.201. DEFINITION. In this subchapter, "state grant assistance" means assistance provided by a state agency that is available to a resident of this state, another state agency, a local government, or a nonprofit or faith-based organization, including a grant, contract, loan, loan guarantee, cooperative agreement, or direct appropriation, property, or another method of disbursement.

Sec. 2055.202. ESTABLISHMENT OF PROJECT. The department shall establish an electronic government project to develop an

Internet website accessible through TexasOnline that:

(1) provides a single location for state agencies to post electronic summaries of state grant assistance opportunities with the state agencies;

(2) enables a person to search for state grant assistance programs provided by state agencies;

(3) allows, when feasible, electronic submission of state grant assistance applications;

(4) improves the effectiveness and performance of state grant assistance programs;

(5) streamlines and simplifies state grant assistance application and reporting processes; and

(6) improves the delivery of services to the public.

Sec. 2055.203. ESTABLISHING AND OPERATING PROJECT; COORDINATION. (a) In establishing and operating the electronic government project under this subchapter, the department, in coordination with the office of the governor, shall direct, coordinate, and assist state agencies in establishing and using:

(1) a common electronic application and reporting system, including:

(A) a standard format for announcing state grant assistance opportunities;

(B) standard data elements for use in creating state grant assistance opportunity announcement summaries, including existing electronic grants programs and search functions; and

(C) a common application form for a person to use in applying for state grant assistance from multiple state grant assistance programs that serve similar purposes and are administered by different state agencies; and

(2) an interagency process for:

(A) improving interagency and intergovernmental coordination of information collection and sharing of data between persons responsible for delivering services relating to a state grant assistance program; and

(B) improving the timeliness, completeness, and quality of information received by a state agency from a recipient of state grant assistance.

(b) A state agency shall provide the department and the office of the governor financial and functional information about any existing or potential systems that in any way provide the functions described in Section 2055.202.

Sec. 2055.204. USE OF ELECTRONIC GRANT SYSTEM. (a) A state agency may not expend appropriated money to implement or design a new system that provides the functions described in Section 2055.202 without obtaining prior approval from the executive director.

(b) The executive director shall determine whether to approve a state agency's continued operation of an existing system or to integrate the system into the project created under this subchapter. The executive director may provide conditional approval of ongoing expenditures while developing appropriate

project plans and funding models for the project.

(c) A state agency shall incorporate common grant application forms developed under Section 2055.203 into the agency's grant application and review processes.

(d) If the department determines that money should be consolidated in the development of this project, the department shall provide a funding model to the Legislative Budget Board and the governor as required by Section 2055.057. A state agency with an existing system approved or conditionally approved under Subsection (b) is exempt from this subsection.

Sec. 2055.205. EXEMPT AGENCIES. (a) The executive director may exempt a state agency or state grant assistance program from the requirements of this subchapter if the executive director determines that the state agency does not have a sufficient number of state grant assistance programs.

(b) The governor, with the assistance of the department, shall make a list of exempted agencies and information about programs exempted from this subchapter available to the public through the office of the governor's Internet website.

SECTION 3. Subsection (b), Section 2055.204, Government Code, as added by this Act, does not apply to a state agency that operates an existing system until the project created under Subchapter E, Chapter 2055, Government Code, as added by this Act, is operational.

SECTION 4. This Act takes effect September 1, 2005.

S.B. No. 1002

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1002 passed the Senate on April 21, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1002 passed the House on May 25, 2005, by a non-record vote.

Chief Clerk of the House

Approved:

Date

Governor

APPENDIX B-2

PUBLIC LAW 106-107—NOV. 20, 1999

**FEDERAL FINANCIAL ASSISTANCE
MANAGEMENT IMPROVEMENT ACT OF 1999**

Public Law 106-107
106th Congress

An Act

Nov. 20, 1999
[S. 468]

To improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Financial
Assistance
Management
Improvement Act
of 1999.
31 USC 6101
note.
31 USC 6101
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Financial Assistance Management Improvement Act of 1999”.

SEC. 2. FINDINGS.

Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation’s State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

31 USC 6101
note.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) simplify Federal financial assistance application and reporting requirements;

(3) improve the delivery of services to the public; and

(4) facilitate greater coordination among those responsible for delivering such services.

31 USC 6101
note.

SEC. 4. DEFINITIONS.

In this Act:

(1) **DIRECTOR.**—The term “Director” means the Director of the Office of Management and Budget.

(2) **FEDERAL AGENCY.**—The term “Federal agency” means any agency as defined under section 551(1) of title 5, United States Code.

(3) **FEDERAL FINANCIAL ASSISTANCE.**—The term “Federal financial assistance” has the same meaning as defined in section 7501(a)(5) of title 31, United States Code, under which Federal financial assistance is provided, directly or indirectly, to a non-Federal entity.

(4) **LOCAL GOVERNMENT.**—The term “local government” means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code).

(5) **NON-FEDERAL ENTITY.**—The term “non-Federal entity” means a State, local government, or nonprofit organization.

(6) **NONPROFIT ORGANIZATION.**—The term “nonprofit organization” means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(7) **STATE.**—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

(8) **TRIBAL GOVERNMENT.**—The term “tribal government” means an Indian tribe, as that term is defined in section 7501(a)(9) of title 31, United States Code.

(9) **UNIFORM ADMINISTRATIVE RULE.**—The term “uniform administrative rule” means a Governmentwide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(a) **IN GENERAL.**—Except as provided under subsection (b), not later than 18 months after the date of the enactment of this Act, each Federal agency shall develop and implement a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

(2) demonstrates active participation in the interagency process under section 6(a)(2);

(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

31 USC 6101
note.
Deadline.

(7) in cooperation with recipients of Federal financial assistance, establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act of 1993 (Public Law 103-62; 107 Stat. 285).

(b) EXTENSION.—If a Federal agency is unable to comply with subsection (a), the Director may extend for up to 12 months the period for the agency to develop and implement a plan in accordance with subsection (a).

(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

(1) COMMENT.—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult with representatives of non-Federal entities during development and implementation of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

Federal Register,
publication.

31 USC 6101
note.

SEC. 6. DUTIES OF THE DIRECTOR.

(a) IN GENERAL.—The Director, in consultation with agency heads and representatives of non-Federal entities, shall direct, coordinate, and assist Federal agencies in establishing—

(1) a common application and reporting system, including—

(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies; and

(2) an interagency process for addressing—

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs,

including appropriate information sharing consistent with section 552a of title 5, United States Code; and

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) **LEAD AGENCY AND WORKING GROUPS.**—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use inter-agency working groups to assist in carrying out such responsibilities.

(c) **REVIEW OF PLANS AND REPORTS.**—Upon the request of the Director, agencies shall submit to the Director, for the Director's review, information and other reporting regarding agency implementation of this Act.

(d) **EXEMPTIONS.**—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which shall be available to the public through the Office of Management and Budget's Internet site.

(e) **REPORT ON RECOMMENDED CHANGES IN LAW.**—Not later than 18 months after the date of the enactment of this Act, the Director shall submit to Congress a report containing recommendations for changes in law to improve the effectiveness, performance, and coordination of Federal financial assistance programs.

(f) **DEADLINE.**—All actions required under this section shall be carried out not later than 18 months after the date of the enactment of this Act.

SEC. 7. EVALUATION.

(a) **IN GENERAL.**—The General Accounting Office shall evaluate the effectiveness of this Act. Not later than 6 years after the date of the enactment of this Act, the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) **CONTENTS.**—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans; and

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this

Records.

Deadline.

31 USC 6101
note.

Deadline.

31 USC 6101
note.

31 USC 6101
note.

Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

31 USC 6101
note.

SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

31 USC 6101
note.

SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of the enactment of this Act and shall cease to be effective 8 years after such date of enactment.

Approved November 20, 1999.

LEGISLATIVE HISTORY—S. 468 (H.R. 409):

SENATE REPORTS: No. 106-103 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 145 (1999):

July 15, considered and passed Senate.

Nov. 2, considered and passed House, amended.

Nov. 4, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 35 (1999):

Nov. 20, Presidential statement.

○

APPENDIX C

APPENDIX C-1

TEXAS UNIFORM PLANNED COMMUNITY ACT

Legislative Council Draft 79R7394

CONTENTS

TABLE OF CONTENTS TO TUPCA

SECTION 1 PURPOSE

SECTION 2 RENAMES TITLE 7 PROPERTY CODE

SECTION 3 TEXAS UNIFORM PLANNED COMMUNITY ACT (adds Chapter 83 Property Code)

SECTION 4 ADR (amends §154.002 Civ. Prac. & Rem. Code)

SECTION 5 LIMITATIONS (adds §16.0048 Civ. Prac. & Rem. Code)

SECTION 6 TRANSITIONAL PROVISION

SECTION 7 EFFECTIVE DATE

This edition of Legislative Council Draft 79R7394 is published by the Texas College of Real Estate Attorneys, and may also be downloaded from www.tupca.org. The text of the bill (starting at Page 1) is identical to that of the Legislative Council Draft. However, this edition has several user-friendly format features that the Legislative Council Draft does not have, such as . . .

- This Cover Page
- Table of Contents
- Bolding of section titles
- Single-line spacing - fewer pages
- Elimination of underlining in SECTION 3

**Texas Uniform Planned Community Act
Proposed as Chapter 83, Texas Property Code**

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
SUBCHAPTER A. GENERAL PROVISIONS	2
Sec. 83.001. SHORT TITLE	2
Sec. 83.002. APPLICABILITY	2
Sec. 83.003. DEFINITIONS; CONSTRUCTION OF WORDS AND PHRASES	2
Sec. 83.004. APPLICABILITY OF CERTAIN OTHER LAW	7
Sec. 83.005. VARIATION BY AGREEMENT; WAIVER	7
Sec. 83.006. PUBLIC RECORDING	7
Sec. 83.007. LOCATION OF PLANNED COMMUNITY IN MORE THAN ONE COUNTY	7
Sec. 83.008. AUTHORITY OF LOCAL GOVERNMENT	8
Sec. 83.009. CONDEMNATION	9
Sec. 83.010. VENUE	9
Sec. 83.011. CONSTRUCTION AGAINST IMPLICIT REPEAL	9
Sec. 83.012. UNIFORMITY OF APPLICATION AND CONSTRUCTION	9
 SUBCHAPTER B. CREATION, ALTERATION, AND TERMINATION OF AND INTERESTS IN PLANNED COMMUNITIES	 10
Sec. 83.051. CREATION OF PLANNED COMMUNITY	10
Sec. 83.052. PLATS; CERTAIN DUTIES OF DECLARANT	10
Sec. 83.053. CONTENTS OF DECLARATION	11
Sec. 83.054. ALLOCATION OF VOTES AND COMMON EXPENSE LIABILITIES	12
Sec. 83.055. LIMITED COMMON AREAS	12
Sec. 83.056. EXERCISE OF DEVELOPMENT RIGHTS	12
Sec. 83.057. TRANSFER OF SPECIAL DECLARANT RIGHTS	14
Sec. 83.058. OWNERSHIP, MAINTENANCE, AND CONVEYANCE OF COMMON AREA	15
Sec. 83.059. DECLARANT'S EASEMENT AND USE RIGHTS	16
Sec. 83.060. EASEMENT FOR ENCROACHMENTS	16
Sec. 83.061. AMENDMENT OF GOVERNING DOCUMENT; CHALLENGING AMENDMENT	16
Sec. 83.062. JUDICIAL POWERS CONCERNING COMPLIANCE WITH AND AMENDMENT OF GOVERNING DOCUMENTS	18
Sec. 83.063. DURATION AND EXTENSION OF DECLARATION	19
Sec. 83.064. TERMINATION OF PLANNED COMMUNITY; RESCINDING TERMINATION	20
Sec. 83.065. RIGHTS OF SECURED LENDERS	21
Sec. 83.066. MERGER OR CONSOLIDATION OF PLANNED COMMUNITIES; CHALLENGE OF MERGER OR CONSOLIDATION	21
Sec. 83.067. CONSTRUCTION, VALIDITY, AND EFFECT OF GOVERNING DOCUMENTS	22
 SUBCHAPTER C. MANAGEMENT OF PLANNED COMMUNITY	 23
Sec. 83.101. ORGANIZATION OF OWNERS ASSOCIATION	23
Sec. 83.102. POWERS OF ASSOCIATION	23
Sec. 83.103. OFFICERS AND DIRECTORS; DECLARANT CONTROL PERIOD	24
Sec. 83.104. TERMINATION OF CONTRACTS AND LEASES OF DECLARANT	25
Sec. 83.105. BYLAWS	26
Sec. 83.106. UPKEEP OF PLANNED COMMUNITY	26
Sec. 83.107. QUORUMS	26

Sec. 83.108. VOTING AND PROXIES	26
Sec. 83.109. ASSOCIATION RECORDS	27
Sec. 83.110. ASSOCIATION AS TRUSTEE	27
Sec. 83.111. ASSOCIATION MANAGEMENT CERTIFICATE	28
Sec. 83.112. VIOLATIONS AND ENFORCEMENT	28
Sec. 83.113. ARCHITECTURAL STANDARDS	29
Sec. 83.114. ASSESSMENTS FOR COMMON EXPENSES	29
Sec. 83.115. ASSOCIATION'S LIEN FOR ASSESSMENTS	31
Sec. 83.116. FORECLOSURE OF ASSESSMENT LIEN	32
SUBCHAPTER D. PROTECTION OF OWNERS	32
Sec. 83.151. RIGHTS GUARANTEED	32
Sec. 83.152. ASSOCIATION DUTIES	32
Sec. 83.153. REASONABLE RULES	33
Sec. 83.154. PROTECTION FROM FINES	34
Sec. 83.155. RIGHT TO NOTICE BEFORE ENFORCEMENT	34
Sec. 83.156. RIGHT TO HEARING	35
Sec. 83.157. RIGHT OF APPEAL	35
Sec. 83.158. PAYMENT PLAN FOR DEBT	35
Sec. 83.159. LIMITATIONS PERIODS	36
Sec. 83.160. PROTECTION AGAINST NONJUDICIAL FORECLOSURE	36
Sec. 83.161. REPORT THAT FORECLOSURE OCCURRED	37
Sec. 83.162. RIGHT OF REDEMPTION AFTER FORECLOSURE	37
Sec. 83.163. DISPUTED CHARGES	39
Sec. 83.164. LIMITS ON LIABILITY FOR ATTORNEY'S FEES AND CERTAIN OTHER COSTS	40
Sec. 83.165. LIMITS ON THIRD-PARTY FEES	40
Sec. 83.166. LIMITS ON SUSPENDED VOTE	41
Sec. 83.167. ASSOCIATION ACCOUNTS	41
Sec. 83.168. LIMIT ON LIABILITY	42
Sec. 83.169. MEETING RIGHTS	42
Sec. 83.170. ACCESS TO ASSOCIATION RECORDS	43
Sec. 83.171. REMOVAL OF DIRECTORS	43
Sec. 83.172. RIGHT OF ACCESS	44
Sec. 83.173. RIGHT OF ACTION	44
Sec. 83.174. WRITTEN COMMUNICATIONS	44
Sec. 83.175. DISPUTE RESOLUTION	44
SUBCHAPTER E. PROTECTION OF PURCHASERS	45
Sec. 83.201. TYPES OF CONVEYANCES	45
Sec. 83.202. APPLICABILITY OF SUBCHAPTER	45
Sec. 83.203. DELIVERY METHODS ALLOWED	46
Sec. 83.204. SELLER'S NOTICE OF MEMBERSHIP	46
Sec. 83.205. NOTICE REQUIRED FOR NEW HOME SALES	47
Sec. 83.206. PLANNED COMMUNITY INFORMATION STATEMENT	47
Sec. 83.207. PURCHASER'S RIGHT TO CANCEL	49
Sec. 83.208. RESALE OF LOT	50
SUBCHAPTER F. APPLICABILITY	53
Sec. 83.251. APPLICABILITY TO NEW PLANNED COMMUNITIES	53
Sec. 83.252. APPLICABILITY TO ESTABLISHED PLANNED COMMUNITIES	53
Sec. 83.253. EXISTING PLANNED DEVELOPMENT BECOMES PLANNED COMMUNITY	53
Sec. 83.254. EXCLUSIONS FOR CERTAIN PLANNED COMMUNITIES	54

By: _____

___B. No. ___

A BILL TO BE ENTITLED

AN ACT

relating to the adoption of the Texas Uniform Planned Community Act.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

(1) it is in the best interests of the state and the residents of the state to establish a clear, comprehensive, and uniform framework for the creation and operation of residential planned communities that, unlike condominiums, are not subject to an enabling statute;

(2) it is in the best interests of the state and the residents of the state to have the same legal framework for residential planned communities in every part of this state, without exceptions for particular developments or regions;

(3) it is in the best interests of this state and the residents of the state to encourage each owners association to communicate effectively with the members of the association, to treat the members of the association fairly, and to try to resolve disputes with members of the association without the use of litigation;

(4) it is in the best interests of this state's local political subdivisions and residents of those subdivisions to promote the financial strength and stability of owners associations in residential planned communities, which perform functions that might otherwise become a public responsibility and expense;

(5) it is the policy of this state to give real estate developers and home builders, within a uniform structure of the development of a planned community, flexible development rights accompanied by specific obligations that extend through the transition to owner control;

(6) the continuation of the economic prosperity of this state depends on the viability of residential planned communities and the ability of owners associations to protect property values by maintaining neighborhood standards;

(7) it is the policy of this state to promote effective and efficient property management through defined operational requirements that preserve flexibility for owners associations; and

(8) it is the policy of this state to promote the availability of funds for financing homes in planned communities by enabling lenders to extend financial services to a greater market on a safer, more predictable basis due to standardized practices and prudent insurance and risk management obligations.

SECTION 2. The heading to Title 7, Property Code, is amended to read as follows:

1 TITLE 7. CONDOMINIUMS AND PLANNED COMMUNITIES

2
3 SECTION 3. Title 7, Property Code, is amended by adding Chapter 83 to read as follows:

4
5 **CHAPTER 83. TEXAS UNIFORM PLANNED COMMUNITY ACT**

6
7 **SUBCHAPTER A. GENERAL PROVISIONS**

8
9 **Sec. 83.001. SHORT TITLE.** This chapter may be cited as the Texas Uniform Planned
10 Community Act.

11
12 **Sec. 83.002. APPLICABILITY.** Applicability of this chapter is governed by Subchapter F.

13
14 **Sec. 83.003. DEFINITIONS; CONSTRUCTION OF WORDS AND PHRASES.** (a) In a
15 governing document, unless the document specifically provides otherwise or the context requires
16 otherwise, and in this chapter:

17
18 (1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under
19 common control with a declarant. For purposes of this subdivision:

20
21 (A) a person "controls" a declarant if the person:

22 (i) is a general partner, officer, director, or employer of the declarant;

23
24 (ii) directly or indirectly or acting in concert with one or more other persons,
25 or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies
26 representing more than 20 percent of the voting interests in the declarant;

27
28 (iii) determines in any manner the election of a majority of the directors of
29 the declarant; or

30
31 (iv) has contributed more than 20 percent of the capital of the declarant; and

32
33 (B) a person "is controlled by" a declarant if the declarant:

34
35 (i) is a general partner, officer, director, or employer of the person;

36
37 (ii) directly or indirectly or acting in concert with one or more other persons,
38 or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies
39 representing more than 20 percent of the voting interests in the person;

40
41 (iii) determines in any manner the election of a majority of the directors of
42 the person; or

43
44 (iv) has contributed more than 20 percent of the capital of the person.

45
46 (2) "Allocated interests" means the common expense liability and votes in the association
47 allocated to each lot.

48
49 (3) "Assessment" means an amount due to the association from the owner or levied
50 against the lot by the association under the governing documents or this chapter. The term
51 includes:
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(A) regular and special assessments;

(B) dues, fees, charges, interest, late fees, and fines;

(C) costs of collection or enforcement, including reasonable attorney's fees; and

(D) any special purpose assessment provided in the governing documents.

(4) "Association" means the owners association organized under Section 83.101.

(5) "Board" means the board of directors or the body, regardless of name, designated by a governing document to act on behalf of an association.

(6) "Builder" means a person who, in the ordinary course of business:

(A) purchases or contracts to purchase one or more unimproved or improved lots for the purpose of constructing or completing the initial improvements on the lots for marketing or sale to homeowners; or

(B) purchases land within a planned community for further subdivision, development, or sale.

(7) "Bylaws" means any instrument, however designated, that is adopted by or for the association for the regulation, administration, and management of the association.

(8) "Common area" or "area of common responsibility" means:

(A) any real property within a planned community, other than a lot, that is owned or leased by the association;

(B) any area or improvement in or appurtenant to the planned community for which the association has maintenance responsibility, even if the area or improvement is located on a lot or public right-of-way; or

(C) any other interest in real property held by the association for the benefit of lot owners.

(9) "Common expenses" means expenditures made by, or financial liabilities of, the association, together with any allocation to reserves.

(10) "Common expense liability" means the liability for common expenses allocated to each lot under Section 83.054.

(11) "Declarant" means a person designated as the declarant in a declaration, a person who executes a declaration if no declarant is designated, or a person who succeeds to special declarant rights. If a planned community is not yet created, the term refers to any person or group of persons acting in concert who, as part of a common promotional plan, offer to dispose of the persons' interest in a lot not previously disposed of. The term does not include:

(A) a person holding an interest in real property solely as security for an obligation;

(B) a person whose interest in the real property will not be conveyed to lot

1 owners; or

2
3 (C) in the case of a leasehold planned community, a lessor who possesses no
4 special declarant rights.

5
6 (12) "Declarant control period" means:

7
8 (A) the period of time stated in the declaration during which the declarant controls
9 the operation and management of the association, as distinguished from the development period;
10 or

11
12 (B) if that period is longer than the period allowed under Section 83.103(g), the
13 period ending on the latest date allowed under that section.

14
15 (13) "Declaration" means any instrument, however designated, other than the plat, that
16 creates a planned community.

17
18 (14) "Dedicatory instrument" means the plat and the declaration.

19
20 (15) "Development period" means:

21
22 (A) the period of time stated in the declaration during which the declarant may
23 exercise development rights and special declarant rights, as distinguished from the declarant control
24 period; or

25
26 (B) if no period is stated, the seven-year period following the date the declaration
27 is recorded.

28
29 (16) "Development right" means a right or combination of rights related to the size and
30 composition of a planned community that are reserved by a declarant in the declaration to:

31
32 (A) add real property to a planned community;

33
34 (B) create lots, common areas, or limited common areas within a planned
35 community;

36
37 (C) subdivide lots, combine lots, reconfigure lots, or convert lots into common
38 areas; or

39
40 (D) withdraw real property from a planned community.

41
42 (17) "Governing document" means a document that governs the creation, use, or
43 operation of the planned community, including the plat, declaration, bylaws, articles of incorporation,
44 and rules. The term does not include agreements negotiated between the association and individual
45 owners, agreements between the association and nonowners, or individual lot restrictions that are
46 not part of a general development plan for the planned community.

47
48 (18) "Homeowner" means a lot owner other than a declarant, an affiliate of a declarant,
49 a builder, or a person in the business of selling lots for the person's own account.

50
51 (19) "Individual assessment" means a charge levied by the association against an
52 individual lot or lot owner but not against all lots and lot owners. Individual assessments include:

1 (A) interest, late charges, collection costs, and attorney's fees relating to
2 delinquent assessments;

3
4 (B) reimbursement for costs, such as attorney's fees, incurred in bringing an owner
5 or an owner's lot into compliance with the governing documents;

6
7 (C) fines for violations of the governing documents;

8
9 (D) fees related to the sale or transfer of a lot, including a resale certificate fee;

10
11 (E) reimbursement for damage to or waste of common areas or association
12 property caused by wilful or negligent acts; or

13
14 (F) pass-through expenses for services to a lot provided through the association
15 and that is equitably paid by a lot according to benefit received.

16
17 (20) "Institutional lender" means the Federal National Mortgage Association, the Federal
18 Home Loan Mortgage Corporation, the Government National Mortgage Corporation, the Federal
19 Housing Administration, or the United States Department of Veteran Affairs.

20
21 (21) "Limited common area" means a common area or a portion of a common area
22 allocated by a dedicatory instrument for the exclusive use of one or more but fewer than all of the
23 lots.

24
25 (22) "Lot" means a physical portion of a planned community designated for separate
26 ownership, however designated, including "reserve," "tract," "parcel," or "lot." The term:

27
28 (A) includes:

29
30 (i) a lot that is or will be improved with an attached or detached one-to-four
31 family dwelling, such as a townhouse, patio home, single-family house, duplex, triplex, or fourplex;

32
33 (ii) a platted lot or an unplatted tract or parcel that may later be subdivided
34 into additional lots or common areas; or

35
36 (iii) all improvements on a lot where the context indicates or requires; and

37
38 (B) does not include:

39
40 (i) a common area, even if the area is platted and numbered as a lot; or

41
42 (ii) a condominium unit.

43
44 (23) "Lot owner" or "owner" means a person who holds recorded fee simple title to a
45 lot, including a declarant, builder, or homeowner. The term does not include a person having an
46 interest in a lot solely as security for an obligation.

47
48 (24) "Master association" means an organization that is authorized to exercise some or
49 all of the powers of an association under Section 83.102 on behalf of or for the benefit of one or
50 more planned communities or condominiums, whether or not the organization is also an association
51 described by Section 83.101.

1 (25) "Master planned community" means a planned community within which one or more
2 planned communities or condominiums are located.

3
4 (26) "Planned community" means a residential real property development with lots
5 designated for separate ownership, with respect to which the owner is or may become obligated by
6 a dedicatory instrument to be a member of an association and to pay a share of the association's
7 common expenses, including expenses for maintenance, management, administration, and regulation
8 of all or part of the real property development. A planned community may or may not have a
9 common area. Real property is not a planned community if the common area is directly owned in
10 undivided interests by the lot owners. A planned community is not a condominium, as defined by
11 Chapter 81 or 82, but a condominium may be on a lot in a planned community.

12
13 (27) "Planned community information statement" means the disclosures prepared by the
14 declarant for purchasers of new home sales under Section 83.206.

15
16 (28) "Plat" means a publicly recorded land survey plat that depicts all or a portion of a
17 planned community in at least two dimensions.

18
19 (29) "Publicly recorded" means recorded in the public, official, or real property records
20 of the county or counties in which the planned community is located.

21
22 (30) "Purchaser" means a prospective homeowner, as used in Subchapter E.

23
24 (31) "Resale package" means the disclosures, including a resale certificate, prepared by
25 the association for purchasers of resales under Section 83.208.

26
27 (32) "Rules" means an instrument other than the declaration, bylaws, and articles of
28 incorporation of the association, however designated, adopted by or for the benefit of the association
29 for the guidance and management of the planned community, including use rules and architectural
30 standards.

31
32 (33) "Special declarant rights" means a right or combination of rights reserved in the
33 declaration by a declarant, for the benefit of a declarant or builders, to facilitate the development,
34 construction, and marketing of the planned community, including rights to:

35
36 (A) complete improvements indicated on plats or required by governmental
37 entities;

38 (B) exercise any development right;

39
40 (C) maintain sales offices, management offices, leasing offices, signs advertising
41 the planned community, and models;

42
43 (D) create and use easements through the common area for the purpose of making
44 improvements within the planned community or real property that may be added to the planned
45 community;

46
47 (E) make the planned community subject to a master association;

48
49 (F) merge or consolidate a planned community with one or more other planned
50 communities; and
51
52

1 (G) appoint or remove any officer or director of the association during any period
2 of declarant control.

3
4 (b) Unless the context requires otherwise, a document or instrument referenced in this chapter
5 includes all components of the document, including exhibits and schedules, and all changes to the
6 document, including amendments, supplements, and restatements.

7
8 (c) Certain provisions of this chapter are intended to apply to a planned community only in
9 the absence of an equally specific provision in a governing document. As used in this chapter,
10 "unless specifically provided otherwise" means that the provision of this chapter applies to a planned
11 community only if the referenced governing document does not address the same issue, right, or
12 reservation. If the referenced governing document contains a provision that addresses the same
13 issue, right, or reservation and the provision in the governing document and the corresponding
14 provision in this chapter cannot both be given effect, the provision in the governing document
15 controls.

16
17 **Sec. 83.004. APPLICABILITY OF CERTAIN OTHER LAW.** (a) The rule against
18 perpetuities does not apply to a declaration, to the interests created in a declaration, or to other
19 governing documents.

20
21 (b) Sections 5.012 and 5.025 and Chapters 201, 202, 204, 205, 206, 207, and 209 do not
22 apply to a planned community subject to this chapter.

23
24 **Sec. 83.005. VARIATION BY AGREEMENT; WAIVER.** (a) Except as expressly provided
25 by this chapter, provisions of this chapter may not be varied by agreement and rights conferred by
26 this chapter may not be waived.

27
28 (b) A person may not act under a power of attorney or use any other device to evade the
29 limitations or prohibitions of this chapter or a declaration.

30
31 **Sec. 83.006. PUBLIC RECORDING.** (a) A declaration and bylaws, and amendments to a
32 declaration or bylaws, must be publicly recorded. Other governing documents may be publicly
33 recorded. Amendments to a recorded governing document must be publicly recorded.

34
35 (b) To be enforceable against any portion of the real property in a planned community, a
36 dedicatory instrument must be publicly recorded in the county in which the real property is located,
37 except that a lot or common area that is located in two or more counties is subject in its entirety to
38 a dedicatory instrument recorded in any county in which the lot is located.

39
40 (c) An instrument creating or enforcing a property right against less than an entire planned
41 community, including a deed, plat, easement, or lien, must be recorded in every county in which the
42 property subject to the instrument is located, but need not be recorded in counties that contain
43 portions of the planned community other than the subject property.

44
45 (d) While a planned community is being created, neither a declarant nor the association is
46 required to record governing documents in a county in which future phases of the planned
47 community may be located. Recording a governing document in a county in which none of the
48 planned community is located at the time of recording may not be construed as an obligation by a
49 declarant to expand the planned community to that county.

50
51 **Sec. 83.007. LOCATION OF PLANNED COMMUNITY IN MORE THAN ONE COUNTY.**
52 (a) This section applies only to a planned community that is located in more than one county.

1 (b) The declaration may designate one of the counties in which a planned community is
2 located as the county of record in case of inconsistencies in governing documents affecting the
3 planned community as a whole.
4

5 (c) A reference to a governing document that has been recorded in more than one county is
6 not invalid if the reference recites the recording data for the designated county of record or for any
7 one county in which the governing document is recorded but fails to recite the recording data for
8 another county or counties in which the governing document is recorded.
9

10 (d) If a governing document is recorded in more than one county, a requirement of this
11 chapter to provide a copy of the governing document does not require the provision of a copy of
12 each county's public record.
13

14 (e) If this chapter or a governing document requires that a governing document be recorded
15 in more than one county, the failure to record the governing document in every required county does
16 not alter the effectiveness of the governing document for each county in which the governing
17 document is recorded.
18

19 (f) Recording a declaration in one county is constructive notice in that county of governing
20 documents that may be recorded in any other county named in the declaration as a county in which
21 the planned community is or will be located.
22

23 **Sec. 83.008. AUTHORITY OF LOCAL GOVERNMENT.** (a) Except as provided by
24 Subsection (b), this chapter does not:
25

26 (1) invalidate or modify any provision of a building code, zoning, subdivision, or other
27 real estate use law, ordinance, rule, or regulation governing the use of real property; and
28

29 (2) affect or diminish the rights of local governments to:
30

31 (A) approve plats of subdivisions; and
32

33 (B) enforce building codes as may be authorized or required by law.
34

35 (b) A building code may not impose any requirement on any structure in a planned community
36 that the code does not impose on a physically identical improvement in a development other than
37 a planned community.
38

39 (c) In addition to other rights and remedies available to each local government in whose
40 jurisdiction a planned community is located, the governmental entity with responsibility for code
41 enforcement in the planned community is entitled to but does not have a duty to access common
42 areas within the entity's jurisdiction to:
43

44 (1) enforce applicable ordinances of the governmental entity;
45

46 (2) preserve or maintain public property; or
47

48 (3) restore a common area to a standard acceptable to the governmental entity after
49 the governmental entity gives a written demand for maintenance and a reasonable period in which
50 to perform the maintenance to the association and any other party named in the dedicatory
51 instrument as responsible for maintaining the common area.
52

1 **Sec. 83.009. CONDEMNATION.** (a) If a lot is acquired by condemnation, or if part of a
2 lot is acquired by condemnation leaving the owner with a remnant that may not practically or lawfully
3 be used for any purpose permitted by the declaration, the condemnation award must compensate
4 the owner for the entire lot. On acquisition, unless the condemnation order specifically provides
5 otherwise, the condemned lot's entire allocated interests are automatically reallocated to the
6 remaining lots in proportion to the respective allocated interests of those lots before the
7 condemnation. The association may prepare, execute, and have publicly recorded an amendment
8 to the declaration reflecting the reallocations.

9
10 (b) Subject to Subsection (a), if part of a lot is acquired by condemnation, the condemnation
11 award must compensate the owner for the reduction in value of the lot. Unless the allocated
12 interests are uniform for all lots in the planned community, the condemned lot's allocated interests
13 may be reduced in proportion to the reduction in the size of the lot, or on any other basis specified
14 by the declaration, and the portion of the allocated interests divested from the partially acquired lot
15 may be automatically reallocated to that lot and the remaining lots in proportion to the respective
16 allocated interests of those lots before the condemnation, with the partially acquired lot participating
17 in the reallocation on the basis of the lot's reduced allocated interests.

18
19 (c) If part of a common area is acquired by condemnation, the condemnation award must be
20 paid to the association, as trustee for the lot owners, and to persons holding liens on the condemned
21 property, as those persons' interests may appear. The association shall divide any portion of the
22 award not used for restoration or repair of the remaining common area among the lot owners in
23 proportion to the lot owners' respective allocated interests before the condemnation, except that the
24 portion of the condemnation award attributable to the condemnation of a limited common area must
25 be equally divided among the owners of the lots to which that limited common area was allocated
26 at the time of condemnation, or in any manner the declaration provides.

27
28 (d) A court's condemnation order concerning property in a planned community shall be publicly
29 recorded.

30
31 **Sec. 83.010. VENUE.** Venue for an action to enforce a right or obligation arising under a
32 governing document is in the county in which the planned community is located. If the planned
33 community is located in more than one county, unless the declaration specifically provides otherwise:

34
35 (1) venue for an action pertaining to the entire planned community is in any county in
36 which any part of the planned community is located; and

37
38 (2) venue for an action pertaining to specific real property within the planned community
39 is in any county in which the specific real property is located.

40
41 **Sec. 83.011. CONSTRUCTION AGAINST IMPLICIT REPEAL.** This chapter is intended
42 to be a unified coverage of the subject matter of this chapter, and no part of this chapter may be
43 construed to be impliedly repealed by subsequent legislation if that construction can reasonably be
44 avoided.

45
46 **Sec. 83.012. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** This chapter shall
47 be applied and construed to effectuate the chapter's general purpose to make the law uniform with
48 respect to the subject of this chapter within this state and among states enacting substantively
49 identical law. Any amendment of the chapter that purports to limit the applicability of this chapter
50 or any of the chapter's provisions to less than the entire state, such as by use of population or
51 geographic brackets, is void.

[Sections 83.013-83.050 reserved for expansion]

**SUBCHAPTER B. CREATION, ALTERATION, AND TERMINATION OF
AND INTERESTS IN PLANNED COMMUNITIES**

Sec. 83.051. CREATION OF PLANNED COMMUNITY. (a) A planned community may be created under this chapter:

(1) only by publicly recording the plat and the declaration in the real property records of each county in which any portion of the planned community is located; and

(2) only in the manner described by Section 83.253.

(b) Before the declaration is recorded, constructive notice of a planned community is provided by:

(1) a publicly recorded plat containing text or a notation that a portion of the real property shown on the plat is to be owned, regulated, or maintained by an owners association or collectively by all the property owners, however those concepts are expressed;

(2) a development agreement or ordinance approved by a local government that requires creation of an association for the real property that will become the planned development;

(3) a zoning or platting ordinance adopted by the local government having jurisdiction over a planned community that requires creation of an owners association to own, regulate, or maintain portions of the planned community; or

(4) a publicly recorded notice of a declarant's intent to create a planned community on some or all of the real property described in the notice.

(c) Any portion of a planned community that is conveyed before a declaration is recorded is subject to the declaration at the time the declaration is recorded if:

(1) the owner has constructive or actual notice of the planned community at the time of or before the conveyance and the declarant publicly records a document evidencing that notice; or

(2) the owner executes a written consent to the declaration and the consent is publicly recorded.

(d) If a publicly recorded dedicatory instrument is not properly executed, that defect may be cured by a subsequent execution and recording. After a defect in execution is cured, the dedicatory instrument is effective as of the date the instrument was first recorded.

Sec. 83.052. PLATS; CERTAIN DUTIES OF DECLARANT. (a) Nothing in this chapter may be construed to affect or modify the state laws and local ordinances that authorize and regulate plats, including Chapters 212 and 232, Local Government Code.

(b) A plat may show the intended location and dimensions of a contemplated improvement to be constructed within the planned community, which may be labeled "MUST BE BUILT" or "NEED NOT BE BUILT."

1 (c) If any improvement contemplated on a plat in a planned community is labeled as "NEED
2 NOT BE BUILT" or is to be located within a portion of a planned community with respect to which
3 the declarant has reserved a development right, no promotional material that depicts the
4 improvement may be displayed or delivered to prospective purchasers unless the description or
5 depiction of the improvement is conspicuously labeled or identified as "NEED NOT BE BUILT."
6

7 (d) The declarant shall complete all improvements labeled as "MUST BE BUILT" on plats or
8 plans.
9

10 (e) The declarant is liable for the prompt repair and restoration, to a condition compatible with
11 the remainder of the planned community, of any portion of the planned community affected by the
12 exercise of rights reserved or created under this chapter.
13

14 **Sec. 83.053. CONTENTS OF DECLARATION.** The declaration for a planned community
15 must contain:
16

17 (1) the name of the planned community;
18

19 (2) a statement that the planned community is subject to this chapter;
20

21 (3) the name of the association;
22

23 (4) the name of the declarant;
24

25 (5) a legally sufficient description of the real property included in the planned
26 community;
27

28 (6) a description of any limited common area not designated on the plat as a limited
29 common area;
30

31 (7) a description of any common area not designated on the plat as a common area;
32

33 (8) a description of any real property, other than real property subject to development
34 rights, that may be subsequently allocated as a limited common area, together with a statement that
35 the property may be subsequently allocated as a limited common area;
36

37 (9) the allocation of interests and:
38

39 (A) the formula or basis used to establish the allocations; or
40

41 (B) a statement that the allocations are uniform for all lots;
42

43 (10) any restriction on use, occupancy, or alienation of the lots, including any restriction
44 on leasing;
45

46 (11) the method of amending the declaration;
47

48 (12) if the planned community is not to be perpetual, the duration of the planned
49 community;
50

51 (13) the duration of the declarant control period;
52

- 1 (14) the duration of the development period;
- 2
- 3 (15) a description of all development rights reserved by the declarant;
- 4
- 5 (16) a description of all special declarant rights reserved by the declarant;
- 6
- 7 (17) all other matters required by this chapter to be stated in the declaration; and
- 8
- 9 (18) any other matter the declarant considers appropriate.

10 **Sec. 83.054. ALLOCATION OF VOTES AND COMMON EXPENSE LIABILITIES.** (a) The
11 declaration must allocate to each lot a fraction or percentage of the common expenses of the
12 association and a portion of the votes in the association. The declaration may establish a uniform
13 allocation of common expenses and votes. If the basis for the common expense allocation or the
14 vote allocation is other than uniform for all lots, the declaration must state the formula or basis used
15 to establish each allocation.
16

17
18 (b) The declaration may provide:

19
20 (1) one or more types of assessments to which certain lots or types of lots are subject
21 because the common expense liabilities pertaining to those lots are different;

22
23 (2) that different allocations of votes must be made to the lots on particular matters
24 specified in the governing documents; and

25
26 (3) for class voting on specified issues affecting the class if necessary to protect valid
27 interests of the class.
28

29 **Sec. 83.055. LIMITED COMMON AREAS.** (a) A plat or a provision of the declaration
30 relating to the nature or use of a limited common area may be amended, provided the amendment
31 is approved by the association and by an owner of each lot to which the common area is limited, if
32 not more than five lots share use of the limited common area. If use of the limited common area
33 is shared by more than five lots, the amendment must be approved by owners of three-fourths of
34 the sharing lots.
35

36 (b) Unless specifically provided otherwise by the declaration and subject to board approval,
37 a limited common area may be reallocated by an amendment to the declaration or plat that is
38 executed by the lot owners between or among whose lots the reallocation is made and delivered to
39 the board. If the amendment is acceptable to the board, the association shall deliver the amendment
40 to the county clerk to be publicly recorded at the expense of the reallocating lot owners.
41

42 (c) A common area not previously allocated as a limited common area may not be allocated
43 as a limited common area except by amendment to the declaration or plat.
44

45 (d) This section does not apply to an easement, lease, or license across, of, or relating to a
46 common area.
47

48 **Sec. 83.056. EXERCISE OF DEVELOPMENT RIGHTS.** (a) The declaration may reserve
49 development rights for the declarant without describing specific real property to which the rights
50 apply.
51

52 (b) If the right to add real property is reserved by the declarant in the declaration, the

1 declarant may amend or supplement the declaration at any time during the development period to
2 add real property to the planned community. To add real property to the planned community, the
3 declarant must prepare, execute, and publicly record a declaration amendment or supplemental
4 declaration that describes the additional real property.
5

6 (c) The declarant may create lots, subdivide lots, combine lots, and reconfigure lots in the
7 planned community by any method permitted by state law and any applicable local ordinance.
8

9 (d) Real property in the planned community becomes a common area or limited common area
10 by any of the following methods:
11

12 (1) a notation on a recorded plat that designates the real property as a common area
13 or limited common area;
14

15 (2) a provision in the declaration or in an amendment or supplement of the declaration;
16

17 (3) a recorded deed, executed by the declarant, conveying real property to the
18 association for use as common area; or
19

20 (4) a recorded deed, executed by the declarant, conveying a lot to a builder or to a
21 homeowner and specifically describing a portion of the common area as a limited common area of
22 the lot being conveyed.
23

24 (e) The declarant may subdivide, combine, and reconfigure common areas by any method for
25 creating lots that is permitted by state law and any applicable local ordinance.
26

27 (f) In this subsection, the "development right of withdrawal" is the declarant's right to remove
28 real property from the effect of the declaration and the other governing documents by publicly
29 recording an instrument executed by the declarant and by each owner of real property to be
30 removed. If the declaration provides that the planned community is subject to the development right
31 of withdrawal, the declarant may withdraw the entire planned community, or any portion of the
32 planned community, provided that the withdrawal occurs before the date on which a lot has been
33 conveyed to a homeowner. After a lot has been conveyed to a homeowner, the declarant may
34 withdraw any of the following real property, provided that the withdrawal does not significantly
35 disadvantage or isolate a remaining portion of the planned community:
36

37 (1) any phase or section of the planned community, if no lot in the phase or section has
38 been conveyed to a homeowner;
39

40 (2) any real property to be conveyed to a governmental entity, including land that may
41 be used as a public park or school site;
42

43 (3) any real property the use of which is inconsistent with the purposes of the planned
44 community;
45

46 (4) any real property for which withdrawal is considered by the declarant to be in the
47 best interests of the association; and
48

49 (5) any real property for which the declarant gives specific notice to builders and
50 homeowners in the planned community information statement or the declaration of the declarant's
51 intent to withdraw.
52

1 (g) Development rights and special declarant rights reserved in the declaration are applied
2 automatically to real property added to the planned community. This subsection does not extend
3 the time limit on the exercise of development rights or special declarant rights imposed by the
4 declaration.

5
6 (h) If the exercise of a development right increases or decreases the number of lots, unless
7 the allocations are uniform for all lots, the declaration amendment or supplement reflecting the
8 exercise of the right must reallocate the interests allocated to the lots.

9
10 (i) Rights reserved by the declarant in the declaration and other governing documents for the
11 duration of the development period are not affected by termination of the declarant control period,
12 whether the termination is voluntary or by operation of law.

13
14 **Sec. 83.057. TRANSFER OF SPECIAL DECLARANT RIGHTS.** (a) This section applies
15 to real property owned by the declarant during the development period that is within the planned
16 community or eligible for annexation to the planned community.

17
18 (b) Special declarant rights created or reserved under this chapter may not be transferred to
19 another person except by a publicly recorded instrument evidencing the transfer. The instrument
20 is not effective unless executed by the transferee.

21
22 (c) On transfer of any special declarant right, a transferor is not:

23 (1) relieved of an obligation or liability arising before the transfer; or

24
25 (2) liable for an act or omission or a breach of an obligation arising from the exercise
26 of a special declarant right by a successor declarant who is not an affiliate of the transferor.

27
28 (d) In the event of an involuntary conveyance of the declarant's real property, including by
29 tax sale, judicial sale, nonjudicial sale by a trustee under a deed of trust, or sale under the United
30 States Bankruptcy Code or receivership proceedings:

31 (1) the declarant ceases to have any special declarant rights;

32
33 (2) a person acquiring title to the real property being foreclosed or sold may succeed
34 to all or certain special declarant rights reserved in the declaration as evidenced by:

35 (A) a written instrument executed by the person and publicly recorded not later
36 than the 90th day after the date the person acquires title;

37 (B) a court order or judgment; or

38 (C) a publicly recorded instrument conveying title; and

39 (3) the declarant control period terminates, unless the judgment or instrument conveying
40 title provides for transfer of declarant control to a named successor declarant.

41
42 (e) The liabilities and obligations of a person who succeeds to special declarant rights are as
43 follows:

44
45 (1) a successor to a special declarant right who is an affiliate of a transferor declarant
46 or who is not an affiliate of a transferor declarant and is not described by Subdivision (2) or (3) is
47
48
49
50
51
52

1 subject to all obligations and liabilities imposed on the transferor declarant by this chapter or by the
2 declaration;

3
4 (2) a successor to only a right reserved by the declaration to maintain models, offices,
5 and signs, who is not an affiliate of a declarant:

6
7 (A) may not exercise any other special declarant right; and

8
9 (B) is not subject to any liability or obligation as a declarant, except the obligation
10 to provide a planned community information statement and any liability arising as a result of that
11 obligation; and

12
13 (3) a successor to all special declarant rights held by the transferor declarant who is not
14 an affiliate of that declarant and who succeeded to those rights under a deed in lieu of foreclosure
15 or a judgment or instrument conveying title to lots under Subsection (d) may declare the person's
16 intention in a recorded instrument to hold those rights solely for transfer to another person.

17
18 (f) After a person described by Subsection (e)(3) declares the person's intention to transfer
19 special declarant rights to another person and until all special declarant rights are transferred to a
20 person acquiring title to any lot owned by the successor or an instrument permitting exercise of all
21 those rights is recorded:

22
23 (1) the successor described by Subsection (e)(3) may not exercise any of those rights
24 other than any right held by the transferor declarant to control the board for the duration of the
25 declarant control period; and

26
27 (2) an attempt by the successor to exercise those rights is void.

28
29 (g) As long as a successor declarant may not exercise special declarant rights under
30 Subsection (f), the successor declarant is not subject to any liability or obligation as a declarant other
31 than liability for acts and omissions under Section 83.103(d).

32
33 (h) This section does not subject a successor to a special declarant right to any claim against
34 or other obligation of a transferor declarant, other than claims and obligations arising under this
35 chapter or the declaration.

36
37 **Sec. 83.058. OWNERSHIP, MAINTENANCE, AND CONVEYANCE OF COMMON AREA.**

38 (a) The character of real property as a common area may be determined by a dedicatory
39 instrument, regardless of who owns the common area. Unless the declaration specifically provides
40 otherwise, the association is responsible for maintaining the common area, regardless of how title
41 to the common area is held.

42
43 (b) If a dedicatory instrument designates specific real property as a common area, the
44 conveyance of that common area to the association is a ministerial task that does not require
45 acceptance or approval by the association.

46
47 (c) If a common area is conveyed to the association before any initial proposed improvements
48 are completed, the responsibility of the declarant or builder for the completed improvements is not
49 affected by the conveyance.

50
51 (d) Before conveying a common area to an association, a declarant must have the real
52 property constituting the common area released from the following liens:

1 (1) any lien the foreclosure of which would deprive an owner of:

2 (A) a right of access to the common area or the owner's lot; or

3 (B) an easement of support of the owner's lot; and

4
5
6
7 (2) any other lien on the common area, unless the planned community information
8 statement:

9 (A) describes each lien to which the common area will be subject when conveyed
10 to the association;

11 (B) describes the monetary obligation secured by each lien; and

12 (C) contains an association budget that identifies the monetary obligation secured
13 by the lien.
14

15
16
17
18 **Sec. 83.059. DECLARANT'S EASEMENT AND USE RIGHTS.** (a) During the development
19 period, a declarant may use lots owned or leased by the declarant for purposes related to the
20 development, construction, and marketing of the planned community, including for sales, leasing,
21 construction, or management offices and models. If permitted by the declaration as a special
22 declarant right, the declarant may have the exclusive use of a common area during the development
23 period for the same purposes. A declarant may modify lots or the exteriors of buildings used for
24 these purposes and may maintain signs on the common area that advertise the lots in the planned
25 community for sale or lease.

26 (b) A declarant has an easement through a common area as may be reasonably necessary for:

27 (1) discharging the declarant's obligations; or

28 (2) exercising special declarant rights, whether those rights arise under this chapter or
29 are created by the declaration.

30 (c) During the development period, a declarant may share the easements and rights under this
31 section with one or more builders.
32

33
34 **Sec. 83.060. EASEMENT FOR ENCROACHMENTS.** To the extent that a lot or common area
35 encroaches on another lot or common area, a valid easement for the encroachment exists. The
36 easement does not relieve:

37 (1) a lot owner of liability in case of the owner's wilful misconduct; or

38 (2) a declarant or any other person of liability for failure to adhere to the plats.
39

40
41
42
43
44 **Sec. 83.061. AMENDMENT OF GOVERNING DOCUMENT; CHALLENGING
45 AMENDMENT.** (a) Except to the extent that a governing document affirmatively states that the
46 document is not amendable, a governing document that fails to include provisions permitting the
47 document's amendment may be amended in accordance with this section.
48

49 (b) Subject to Subsection (c) and except as provided by Subsection (i), a declaration may be
50 amended by vote or agreement of lot owners to whom more than 50 percent of the votes in the
51 association are allocated, or a larger percentage stated in the declaration that does not exceed 80
52

1 percent. A percentage stated in a declaration that is larger than 80 percent or a statement that an
2 amendment be approved by the owners or by all owners requires the vote or agreement only of lot
3 owners to whom 80 percent of the votes in the association are allocated.
4

5 (c) The amendment procedures of this section do not apply to amendments that may be made
6 by:
7

8 (1) a declarant, to the extent permitted by a governing document or this chapter;
9

10 (2) the board, to the extent the amendment is:
11

12 (A) necessary to reallocate the allocated interests after condemnation; or
13

14 (B) otherwise permitted by this chapter; or
15

16 (3) certain lot owners, to the extent permitted by this chapter.
17

18 (d) Notwithstanding the voting method or methods specified in a governing document, if an
19 amendment of the governing document requires the approval of owners, the board may invite owners
20 to vote by authorizing the use of electronic polling or voting, written ballot, petition, any other
21 method permitted by the governing document, or any combination of these methods, provided:
22

23 (1) the association gives each lot owner notice of the proposed amendment requiring
24 owner approval and a copy, the text, or the substance of the proposed amendment; and
25

26 (2) the association notifies each lot owner of the date by which the owner's ballot,
27 petition, or proxy must be received to be counted.
28

29 (e) An amendment is effective and binding on all lots in the planned community if:
30

31 (1) the amendment is properly approved by the requisite consents;
32

33 (2) notice of the approval is given to each lot owner in the planned community; and
34

35 (3) the amendment is publicly recorded, if the amendment amends a governing
36 document that is publicly recorded.
37

38 (f) An action to challenge the validity of an amendment adopted by the association under this
39 section must be brought before the first anniversary of the date the amendment is publicly recorded.
40

41 (g) Without a declarant's express consent, an amendment may not increase or otherwise
42 modify the obligations imposed by a governing document on a declarant or reduce or otherwise
43 modify the rights granted by a governing document to a declarant, including special declarant rights.
44

45 (h) If a planned community consisting of multiple sections, each with its own dedicatory
46 instruments, is represented by a single association, the approval requirement may be satisfied by
47 obtaining the required percentage of votes on a section-by-section basis or of the total number of
48 properties in the association's jurisdiction, provided the amendment creates a uniform provision for
49 each section's dedicatory instrument.
50

51 (i) Without a vote of the lot owners or approval of the association, the board or declarant may
52 amend the governing documents in any manner necessary to meet the requirements of an

1 institutional lender to qualify the planned community for purchase money mortgage loans on lots.

2
3 **Sec. 83.062. JUDICIAL POWERS CONCERNING COMPLIANCE WITH AND**
4 **AMENDMENT OF GOVERNING DOCUMENTS.** (a) A court may excuse compliance with a
5 provision in a governing document if the court finds that the provision unreasonably interferes with
6 the association's ability to manage or maintain the planned community, to administer the association,
7 or to carry out any other function required by the governing document, and that compliance with the
8 provision in the governing document is not necessary to protect the legitimate interests of the
9 members of the association or lenders holding security interests in the planned community.
10 Provisions that may be excused by judicial decree include a provision:

11
12 (1) limiting the amount of an assessment or an assessment increase that can be levied
13 against lots;

14
15 (2) requiring that an amendment to the governing document be:

16
17 (A) approved by lenders; or

18
19 (B) signed or acknowledged by members of the association; or

20
21 (3) requiring the approval of more than a simple majority of the voting powers to adopt
22 an amendment for the following limited purposes:

23
24 (A) to extend the term of the declaration;

25
26 (B) to make administrative changes reasonably necessary for management or
27 administration of the planned community; or

28
29 (C) to prohibit or materially restrict uses of lots that threaten to harm or
30 unreasonably interfere with the reasonable use and enjoyment of other property in the planned
31 community.

32
33 (b) The association, acting through the board, may petition a court located in any county in
34 which any portion of the planned community is located for an order amending a governing document
35 if:

36
37 (1) the association has twice sent notice of the proposed amendment to all lot owners
38 by any means allowed for notices to members of nonprofit corporations or unincorporated
39 associations, as applicable;

40
41 (2) the association has conducted at least one meeting of the association at which the
42 proposed amendment was discussed;

43
44 (3) owners of lots to which more than 50 percent of the votes are allocated have voted
45 in favor of the proposed amendment; and

46
47 (4) the association has sent notice of the association's intent to petition the court to
48 each lot owner, any declarant or person holding special declarant rights, and any mortgagee of a lot
49 that, by the terms of the declaration, is entitled to vote on the proposed amendment.

50
51 (c) The court, after hearing, shall grant the relief requested in a petition filed under Subsection
52 (a) if the court finds that:

1 (1) the association has complied with all requirements of this section;

2
3 (2) the court did not receive, prior to the hearing, written objections to the proposed
4 amendment from owners of lots to which more than one-third of the votes are allocated;

5
6 (3) an institutional lender is not entitled to approve the proposed amendment or, if
7 entitled, an institutional lender has not filed with the court prior to the hearing a written objection
8 to the proposed amendment;

9
10 (4) the proposed amendment does not eliminate any right or privilege designated in the
11 declaration as belonging to a declarant or that no declarant has filed with the court prior to the
12 hearing a written objection to the proposed amendment;

13
14 (5) the proposed amendment does not eliminate any right or privilege designated in the
15 declaration as belonging to a mortgagee of a lot entitled by the declaration to vote on the proposed
16 amendment or that the mortgagees on no more than one-third of the lots subject to publicly
17 recorded purchase money deeds of trust have filed with the court prior to the hearing written
18 objections to the proposed amendment; and

19
20 (6) the proposed amendment does not terminate the planned community or change the
21 allocated interests of the lot owners specified in the declaration.

22
23 (d) If the court approves an amendment proposed in a petition under Subsection (a), the court
24 shall enter an order requiring the association to publicly record the amendment together with a copy
25 of the court's order. The recorded amendment and order have the same legal effect as if the
26 amendment were adopted under the applicable requirement in the amended governing document.

27
28 **Sec. 83.063. DURATION AND EXTENSION OF DECLARATION.** (a) A declaration is
29 perpetual unless the declaration states that the declaration endures for a shorter period.

30
31 (b) If a declaration states a term of limited years and does not provide for renewal or
32 extension of the declaration term, the term of the declaration may be extended or made perpetual,
33 if:

34
35 (1) the board adopts a resolution recommending that the term be extended or made
36 perpetual;

37
38 (2) the resolution to extend the term of the declaration or make the term of the
39 declaration perpetual is submitted to the lot owners, as members of the association; and

40
41 (3) the resolution to extend the term of the declaration or make the term of the
42 declaration perpetual is approved by vote or agreement of owners of lots to which at least a majority
43 of the votes in the association are allocated.

44
45 (c) If a declaration states a term of limited years and requires the approval of owners to
46 extend or renew the term, regardless of the requirements in the declaration, the decision to extend
47 or renew may be approved by owners:

48
49 (1) representing at least a majority of the votes in the association; or

50
51 (2) of at least a majority of the lots in the planned community.

1 (d) Except for the extension or renewal of the term of a declaration as authorized by this
2 section, no other provision of a declaration may be amended under this section.
3

4 (e) For any meeting of owners at which a vote is to be taken on a proposed extension or
5 renewal of the term of a declaration under this section, the board shall provide written notice to each
6 lot owner in the time and manner specified by the governing documents for a special meeting of the
7 association.
8

9 (f) If the extension or renewal of declaration term is approved by the required owners, the
10 board shall prepare, execute, and publicly record an amendment of the declaration, reciting the
11 events of the approval. The amendment must recite the names and addresses of the association's
12 officers and directors and must describe the method or methods by which the owners expressed
13 approval. On the recording of the amendment, the planned community is subject to all provisions of
14 the declaration, as extended or renewed.
15

16 **Sec. 83.064. TERMINATION OF PLANNED COMMUNITY; RESCINDING**
17 **TERMINATION.** (a) Except for a condemnation of all lots, a planned community may be
18 terminated only by the agreement of lot owners to whom 80 percent or more of the votes in the
19 association are allocated. A declaration may require the agreement of lienholders for termination
20 of the planned community.
21

22 (b) An agreement of lot owners to terminate a planned community must be evidenced by a
23 termination agreement that:
24

25 (1) is signed and acknowledged by at least two officers of the association who certify
26 that the termination agreement was approved or ratified by the required number of lot owners; and
27

28 (2) lists the names and lots of the owners who approved or ratified the termination
29 agreement.
30

31 (c) To be effective, a termination agreement must be publicly recorded in each county in which
32 a portion of the planned community is located.
33

34 (d) If, under a termination agreement, the real property constituting the planned community
35 is to be sold following termination, the termination agreement must state the terms of the sale. If
36 the planned community has a common area or one or more lots owned by the association, the
37 termination agreement must require the association to convey the common area and lots owned by
38 the association. A termination agreement may provide only for the conveyance of the common area
39 and lots owned by the association, without requiring that the other lots be conveyed.
40

41 (e) Following termination of the planned community, the proceeds of a sale of common area
42 or lots owned by the association, together with any other assets of the association, are held by the
43 association as trustee for lienholders and creditors of the association and for the lot owners and
44 holders of liens on the lots as those interests may appear. Any proceeds and assets remaining after
45 payment of the association's lienholders and creditors must be distributed to the lot owners and the
46 holders of liens on the lots as those interests may appear. A distribution under this subsection to a
47 lot or the lot owner may be reduced by the amount of any delinquent assessment owed to the
48 association by the lot or the lot owner at the time of termination.
49

50 (f) Following termination of the planned community, creditors of the association holding
51 recorded liens on a common area or a lot owned by the association that were recorded before
52 termination may enforce those liens in the same manner as any lienholder.

1 (g) By agreement of the same percentage of lot owners that is required to terminate the
2 planned community, the lot owners may rescind a termination agreement and reinstate the
3 declaration in effect immediately before the election to terminate. To be effective, the rescission
4 agreement must:

5
6 (1) be in writing;

7
8 (2) identify the lot owners who desire to rescind;

9
10 (3) be signed and acknowledged by at least two officers who certify that the rescission
11 was approved by the required number of lot owners; and

12
13 (4) be publicly recorded not later than the first anniversary of the date of the
14 termination.

15
16 (h) This section does not apply to mergers or consolidations of planned communities.

17
18 **Sec. 83.065. RIGHTS OF SECURED LENDERS.** (a) The declaration may require that, as
19 a condition of the effectiveness of certain actions, all or a specified number or percentage of the
20 mortgagees or beneficiaries of deeds of trust encumbering lots approve those actions of the lot
21 owners or the association, except that a requirement for approval may not operate to:

22
23 (1) prevent lot owners or the board from controlling the general administrative affairs
24 of the association; or

25
26 (2) prevent the association from commencing, intervening in, or settling any litigation
27 or other proceeding.

28
29 (b) If a governing document or this chapter requires the consent of mortgagees to an action
30 or amendment by the association, the consent of a mortgagee may be implied if a mortgagee fails
31 to submit a written response to the association not later than the 60th day, or an earlier date
32 specified in the governing document, after the date the association delivers a notice of the proposed
33 action or amendment and a request for approval to the mortgagee by certified mail, return receipt
34 requested. The association may not use a consent implied under this subsection to weaken or
35 eliminate a provision of the governing documents that expressly benefits holders, servicers, insurers,
36 guarantors, or beneficiaries of mortgages.

37
38 **Sec. 83.066. MERGER OR CONSOLIDATION OF PLANNED COMMUNITIES;**
39 **CHALLENGE OF MERGER OR CONSOLIDATION.** (a) Any two or more planned communities of
40 the same form of ownership, by agreement described by Subsection (b), may be merged or
41 consolidated into a single planned community. In the event of a merger or consolidation, unless the
42 agreement specifically provides otherwise:

43
44 (1) the resulting planned community is for all purposes the legal successor of all of the
45 preexisting planned communities; and

46
47 (2) the operations and activities of all associations of the preexisting planned
48 communities are merged or consolidated into a single association that holds all powers, rights,
49 obligations, assets, and liabilities of all preexisting associations.

50
51 (b) An agreement of two or more planned communities to merge or consolidate under
52 Subsection (a) must be evidenced by a recorded agreement that, following approval by lot owners

1 to whom are allocated the percentage of votes in each planned community required to terminate that
2 planned community, has been executed by an officer of each of the preexisting planned communities.
3 In executing the agreement, each officer must certify that requisite approvals of owners were
4 obtained. The agreement is not effective until publicly recorded.

5
6 (c) A merger or consolidation agreement under this section must provide for the reallocation
7 of the previously allocated interests in the preexisting associations among the lots of the resulting
8 planned community by stating:

9
10 (1) the reallocations; or

11
12 (2) the formulas on which the reallocations are based.

13
14 (d) An action to challenge the validity of the merger or consolidation agreement must be
15 brought before the first anniversary of the date the agreement is publicly recorded.

16
17 **Sec. 83.067. CONSTRUCTION, VALIDITY, AND EFFECT OF GOVERNING DOCUMENTS.**

18 (a) The provisions of a governing document shall be liberally construed to give effect to the
19 document's purposes and intent. Limitations and prohibitions on the free and unrestricted use of real
20 property are permitted and are not disfavored. Any doubt regarding a provision of a governing
21 document, including restrictions on alienation or use of land or lots, shall be resolved in favor of the
22 operation of the association and the association's enforcement of the governing documents,
23 regardless of which party seeks enforcement.

24
25 (b) All governing documents are severable, and the provisions of each governing document
26 are severable.

27
28 (c) When used in a governing document, the term "a majority of owners" means owners of
29 a majority of the lots or owners representing a majority of the votes, whichever is appropriate for
30 the context, unless the term is defined in the governing document or the context requires a different
31 interpretation.

32
33 (d) When used in a governing document, a provision that states a "percentage of owners"
34 means owners of the stated percentage of the lots or owners representing the stated percentage of
35 the votes, whichever is appropriate for the context, unless the term is defined in the governing
36 document or the context requires a different interpretation.

37
38 (e) A governing document may not be construed or enforced to:

39
40 (1) require the use of a wood shingle roof on residential property;

41
42 (2) prevent the use of a lot as a "family home" as defined by the Community Homes for
43 Disabled Persons Location Act; or

44
45 (3) discourage or prohibit water conservation activities within fenced or screened
46 portions of a lot, including the implementation of water conservation procedures, the installation of
47 water conservation improvements, and the maintenance of turf and landscape material that promote
48 water conservation.

49
50 (f) Except to the extent a governing document is inconsistent with this chapter, if there is a
51 conflict between the provisions of two governing documents, the document with higher authority
52 prevails. The hierarchy of authority for governing documents is, from highest to lowest, the plat,

1 declaration, articles of incorporation, bylaws, and rules.
2

3 (g) Title to a lot and to the common area is not made unmarketable by a provision of an
4 unrecorded governing document or by failure of a governing document or the association to comply
5 with this chapter.
6

7 [Sections 83.068-83.100 reserved for expansion]
8

9 **SUBCHAPTER C. MANAGEMENT OF PLANNED COMMUNITY**
10

11 **Sec. 83.101. ORGANIZATION OF OWNERS ASSOCIATION.** An association of lot owners
12 must be organized not later than the 90th day after the date the first lot in the planned community
13 is conveyed to a homeowner. The membership of the association at all times consists exclusively
14 of all the lot owners or, following termination of the planned community, all former lot owners
15 entitled to distribution of proceeds, or the owners' heirs, successors, or assigns. The association may
16 be organized as a profit or nonprofit organization. If the association is incorporated, loss of a
17 corporate charter or corporate name does not affect the existence or legitimacy of an association that
18 derives the association's authority from the governing documents and this chapter.
19

20 **Sec. 83.102. POWERS OF ASSOCIATION.** (a) Subject to the rights of owners under
21 Subchapter D and unless specifically prohibited or limited by the governing documents, the
22 association, acting through the association's board, may:
23

24 (1) adopt and amend bylaws;

25 (2) adopt and amend budgets for revenues, expenditures, and reserves;

26 (3) collect assessments for common expenses from lot owners;

27 (4) hire and terminate employees, agents, and contractors;

28 (5) institute, defend, intervene in, settle, or compromise litigation or administrative
29 proceedings in the association's own name on behalf of the association or two or more lot owners
30 on matters affecting the planned community or the association;
31

32 (6) make contracts and incur liabilities relating to the operation of the planned
33 community and the association;
34

35 (7) regulate the use, maintenance, repair, replacement, modification, and appearance
36 of a common area and the association's real and personal property;
37

38 (8) adopt and amend rules regulating the common area and, if permitted under Section
39 83.153, the lots;
40

41 (9) cause additional improvements to be made on and to a common area;

42 (10) acquire, hold, and convey in the association's name any right, title, or interest to
43 real or personal property;
44

45 (11) encumber any right, title, or interest to real property, including a common area, or
46 to personal property, including the association's reserves, provided that:
47
48
49
50
51
52

1 (A) during the period of declarant control, the intent to encumber property of the
2 association is disclosed in the planned community information statement; and
3

4 (B) the essential terms of the encumbrance, the name of the creditor, and a
5 disclosure of the amount or percentage of each lot's assessment that is applied to payment of the
6 encumbrance is disclosed in the planned community information statement and any resale certificate
7 issued during the term of the encumbrance;
8

9 (12) grant easements, leases, licenses, and concessions through or over a common area;
10

11 (13) impose and receive payments, fees, or charges for the use, rental, or operation of
12 a common area;
13

14 (14) adopt and amend rules regulating the collection of delinquent assessments and the
15 application of payments;
16

17 (15) suspend the voting privileges of or common area use by an owner who is more than
18 30 days delinquent in the payment of assessments;
19

20 (16) impose interest or late charges for late payment of assessments and for returned
21 check charges;
22

23 (17) if notice and an opportunity for hearing are given, impose reasonable fines for
24 violations of the governing documents;
25

26 (18) impose reasonable charges for preparing, recording, or copying instruments,
27 including governing documents, resale certificates, statements of unpaid assessments, or instruments
28 related to a lien or violation;
29

30 (19) purchase insurance and fidelity bonds the association considers appropriate or
31 necessary;
32

33 (20) exercise any other powers conferred by the governing documents;
34

35 (21) exercise any other powers that may be exercised in this state by legal entities of
36 the same type as the association; and
37

38 (22) exercise any other powers necessary and proper for the government and operation
39 of the planned community and the association.
40

41 (b) The powers described by this section are in addition to any other powers granted to an
42 association by this chapter, other law, or the association's governing documents.
43

44 **Sec. 83.103. OFFICERS AND DIRECTORS; DECLARANT CONTROL PERIOD.** (a) Unless
45 specifically provided otherwise by a governing document or by law, all acts of the association must
46 be by and through the officers and directors of the association, who shall exercise the ordinary and
47 reasonable care and loyalty required of an officer or director of a corporation organized under the
48 laws of this state, subject to the business judgment rule.
49

50 (b) If a governing document authorizes amendment by the board without consent of the
51 owners, the board may not, without a vote of the owners, amend provisions of a governing document
52 that determine the qualifications, powers and duties, or terms of office of board members. Unless

1 specifically provided otherwise by the governing documents, the board may fill a vacancy in the
2 board's membership for the unexpired portion of a term, but may not otherwise elect members of
3 the board.

4
5 (c) Unless specifically provided otherwise by the governing documents, officers and directors
6 of the association are not required to be lot owners.

7
8 (d) An officer or director of the association is not liable to the association or any lot owner for
9 monetary damages for an act or omission occurring in the person's capacity as an officer or director
10 unless the conduct of the officer or director is not exercised:

11
12 (1) in good faith, with ordinary care, and in a manner the officer or director reasonably
13 believes to be in the best interest of the association; or

14
15 (2) in accordance with any higher standard established by the governing documents.

16
17 (e) Subsection (d) does not diminish a limitation of liability provided to an officer or director
18 by other law or by the governing documents.

19
20 (f) The officers and directors of the association are not personally liable to the association or
21 to any lot owner for the officers' and directors' individual or collective decisions concerning whether
22 to commence a civil action against a declarant or a builder for potential or actual defects in the
23 design or construction of the planned community.

24
25 (g) The declaration may provide for a declarant control period during which a declarant, or
26 persons designated by the declarant, may appoint and remove officers and directors of the
27 association. Regardless of the declarant control period provided by the declaration, a declarant
28 control period terminates not later than the 120th day after the date of the conveyance to
29 homeowners of 75 percent of the lots that may be created in the fully expanded and platted planned
30 community, including lots located on land subject to annexation. If the declarant voluntarily transfers
31 control of the association to the homeowners before the latest possible termination date of the
32 declarant control period, the declarant retains the right to veto all actions and decisions of the
33 association and of the board for the duration of the period that the declarant would otherwise
34 control. The declarant may waive the declarant's right to veto specified actions in a recorded
35 instrument. Transfer of special declarant rights does not terminate or extend the period of declarant
36 control.

37
38 (h) On termination of a declarant control period, the declarant shall call or instruct the
39 association to call a special meeting of the association for the purpose of electing directors to replace
40 the declarant's appointments to the board and to fill vacancies on the board. At this meeting, each
41 lot owner, including the declarant if the declarant is a lot owner, is eligible to vote. The persons
42 elected to the board take office at the time of election.

43
44 **Sec. 83.104. TERMINATION OF CONTRACTS AND LEASES OF DECLARANT.** During the
45 first year the association is controlled by a board elected by homeowners, the association may
46 terminate without penalty any of the following contracts or leases entered into by the declarant
47 controlled board by giving the other party to the contract or lease not less than 90 days' notice of
48 the association's intent to terminate the contract or lease, or any shorter notice period provided in
49 the contract or lease:

50
51 (1) any contract or lease between the association and a declarant or an affiliate of a
52 declarant;

1 (2) any management contract, employment contract, or facilities lease; or
2

3 (3) any contract or lease that is not bona fide or was unconscionable to the owners at
4 the time entered into under the circumstances then prevailing.
5

6 **Sec. 83.105. BYLAWS.** (a) The administration and operation of the planned community and
7 association are governed by the bylaws. The bylaws must provide for:
8

9 (1) the qualifications and number of directors of the association, which number may not
10 be less than three;
11

12 (2) the qualifications and titles of the officers of the association, which officers must
13 include a president, secretary, and treasurer;
14

15 (3) terms of office for directors;
16

17 (4) the manner of electing and removing a board member or officer and of filling
18 vacancies;
19

20 (5) the powers, if any, that the board or an officer may delegate to another person or
21 to a managing agent;
22

23 (6) the method of amending the bylaws; and
24

25 (7) the manner of notice of meetings of the association.
26

27 (b) Subject to the declaration, the bylaws may provide for other matters the association
28 considers desirable, necessary, or appropriate.
29

30 **Sec. 83.106. UPKEEP OF PLANNED COMMUNITY.** Unless specifically provided otherwise
31 by a governing document, the association is responsible for maintenance, repair, and replacement
32 of a common area, and each lot owner is responsible for maintenance, repair, and replacement of
33 the owner's lot.
34

35 **Sec. 83.107. QUORUMS.** (a) Unless specifically provided otherwise by a governing
36 document, a quorum is present throughout any meeting of the association if persons entitled to cast
37 at least 10 percent of the votes that may be cast for election of the board are present in person or
38 by proxy at the beginning of the meeting, including suspended votes described by Section 83.166
39 (c)(1). If a governing document requires a quorum greater than 51 percent of the votes or lots, the
40 requirement is met with 51 percent of the votes or lots.
41

42 (b) Unless a governing document specifies a larger percentage, a quorum is present at a
43 meeting of the board if persons entitled to cast at least 50 percent of the votes on the board are
44 present. A director may not participate in a meeting of the board by proxy unless a governing
45 document specifically permits proxy participation by a director.
46

47 **Sec. 83.108. VOTING AND PROXIES.** (a) If only one of the multiple owners of a lot
48 participates, in person or by proxy, in a vote, ballot, or petition of the association or at a meeting
49 of the association, that person may cast the vote or votes allocated to that lot. If more than one of
50 the multiple owners participates, the vote or votes allocated to that lot may be cast only in
51 accordance with the owners' unanimous agreement, unless the declaration specifically provides
52 otherwise. Multiple owners are considered to be in unanimous agreement if one of the multiple

1 owners casts the votes allocated to a lot and none of the other owners makes prompt protest to the
2 person presiding over the meeting.

3
4 (b) Votes allocated to a lot may be cast under a written proxy executed by a lot owner. An
5 association may not prohibit the use of proxies or require use of a specified form of proxy. A lot
6 owner may not revoke a proxy given under this section except by giving actual notice of revocation
7 to the person designated by the board to receive proxy revocations, the officer designated by the
8 bylaws to receive proxy revocations, or the person presiding over a meeting of the association. A
9 later dated proxy constitutes notice of revocation of a prior dated proxy for the same purpose. A
10 proxy is void if the proxy is not dated or if the proxy purports to be revocable without notice. A
11 proxy terminates 11 months after the proxy is executed, unless the proxy specifies a shorter or
12 longer period. If a lot is owned by more than one person, each owner of the lot may execute a
13 proxy to vote or to register protest to the casting of votes by the other owners of the lot.

14
15 (c) To the extent that the governing documents expressly provide, a vote or proxy may be
16 submitted by electronic transmission if the electronic transmission sets forth or is submitted with
17 information from which it can be determined that the electronic transmission was authorized by the
18 lot owner or the lot owner's proxy.

19
20 (d) Cumulative voting is not allowed.

21
22 **Sec. 83.109. ASSOCIATION RECORDS.** (a) The association shall keep:

23
24 (1) financial records sufficiently detailed to enable the association to prepare a resale
25 certificate;

26
27 (2) a record of the name and address of each lot owner;

28
29 (3) minutes of meetings of the board and the association;

30
31 (4) copies of invoices for which the association seeks reimbursement from an owner; and

32
33 (5) any other record the board deems appropriate.

34
35 (b) Each officer and director of the association, without qualification or condition, may examine
36 and photocopy the association's records. The association shall make the association's records
37 reasonably available to an officer or director at the association's registered office or the association's
38 principal office in this state, by appointment at a time that is acceptable to the association. If an
39 officer or director is also an owner, the right of inspection provided by this section is in addition to
40 the owner's right to inspect records under Section 83.170.

41
42 (c) For the purposes of reducing the costs and improving the efficiency of recordkeeping, the
43 association may establish a records management policy for the creation, use, maintenance, retrieval,
44 retention, preservation, and disposal of records. For purposes of this subsection, records
45 management includes the protection of essential and permanent records, the economical and
46 space-effective storage of inactive records, and the management of records storage systems.

47
48 **Sec. 83.110. ASSOCIATION AS TRUSTEE.** (a) A third person dealing with an association
49 in the association's capacity as a trustee may assume, without inquiry, the existence of trust powers
50 and the proper exercise of those trust powers by the association.

51
52 (b) A third person who lacks actual knowledge that an association is exceeding or improperly

1 exercising the association's trust powers is fully protected in dealing with the association as if the
2 association possessed and properly exercised the powers the association purported to exercise.

3
4 (c) A third person is not bound to ensure the proper application of trust assets paid or
5 delivered to an association in the association's capacity as trustee.

6
7 **Sec. 83.111. ASSOCIATION MANAGEMENT CERTIFICATE.** (a) Not later than the 30th
8 day after the date of the termination of the declarant control period, an association shall publicly
9 record a notice to inform the public how to contact the association, stating:

10 (1) the name of the planned community and, if different, the name of each platted
11 addition, phase, or subdivision in the planned community;

12 (2) the location of the planned community by city and county;

13 (3) the name of the association;

14 (4) the recording data for the plat and the declaration;

15 (5) the mailing address and phone number of the association or the association's
16 representative; and

17 (6) other information the association considers appropriate.

18 (b) The management certificate must be signed and acknowledged by an officer or authorized
19 agent of the association.

20 (c) An amendment or new management certificate must be publicly recorded when the
21 association has notice of a change in any information in a previously recorded management
22 certificate.

23 (d) The association and the association's officers, directors, employees, and agents are not
24 liable to any person for delay or failure to record or to amend a management certificate, unless the
25 delay or failure is wilful or caused by gross negligence.

26
27 **Sec. 83.112. VIOLATIONS AND ENFORCEMENT.** (a) The board may use the board's
28 discretion in determining whether to pursue a violation of a governing document, provided the board
29 does not act in an arbitrary, capricious, or discriminatory manner.

30 (b) In evaluating a particular violation, the board may determine that under the particular
31 circumstances:

32 (1) the association's position is not sufficiently strong to justify taking any or further
33 action;

34 (2) the provision being enforced may be inconsistent with applicable law;

35 (3) the violation is not of such a material or visible nature as to be objectionable to a
36 reasonable person or to justify expending the association's resources; or

37 (4) enforcement is not in the association's best interests, based on hardship, expense,
38 or other reasonable criteria.

1 (c) An exercise of discretionary authority by the board, the association, or a committee of the
2 association is presumed reasonable unless a court determines by a preponderance of the evidence
3 that the exercise of discretionary authority was arbitrary, capricious, or discriminatory.
4

5 (d) The association may initiate, defend, or intervene in litigation or an administrative
6 proceeding affecting:
7

8 (1) the enforcement of a provision of the governing documents; or
9

10 (2) the protection, preservation, or operation of the planned community.
11

12 **Sec. 83.113. ARCHITECTURAL STANDARDS.** (a) In this section:
13

14 (1) "Architectural standard" means a provision in a governing document that regulates
15 improvements in the planned community, including appearance, design, size, style, condition,
16 location, and quality of improvements.
17

18 (2) "Architectural standards committee" means a person, persons, or body, however
19 designated by a governing document, with power to approve or deny applications for proposed
20 construction or modification of improvements in the planned community.
21

22 (b) Unless specifically provided otherwise by a governing document, an architectural standards
23 committee may:
24

25 (1) issue procedures and guidelines for enforcing architectural standards in the planned
26 community; and
27

28 (2) modify the procedures and guidelines as the needs of the planned community
29 change.
30

31 (c) An action may not be commenced or maintained to enforce an architectural standard or
32 to compel the removal of an improvement that violates an architectural standard unless the action
33 is commenced not later than the fourth anniversary of the date on which construction of the
34 improvement is substantially complete, or an earlier date provided in a governing document.
35

36 (d) If a governing document contains architectural standards or creates an architectural
37 standards committee but does not provide for perpetuation of an architectural standards committee
38 by the association after the development period, the right to elect or appoint the architectural
39 standards committee automatically and permanently vests in the association on expiration of the
40 development period. The board may appoint and remove members of the architectural standards
41 committee and may serve as the architectural standards committee, unless a governing document
42 specifically provides otherwise.
43

44 (e) This section does not create architectural standards or authority for an architectural
45 standards committee if a dedicatory instrument does not create architectural standards or an
46 architectural standards committee.
47

48 **Sec. 83.114. ASSESSMENTS FOR COMMON EXPENSES.** (a) Until the association makes
49 a common expense assessment, the declarant shall pay all common expenses. After a common
50 expense assessment has been made by the association, assessments shall be levied at least annually
51 and must be based on a budget adopted at least annually by the association.
52

1 (b) From the date of the initial assessment until the declarant control period terminates, the
2 declarant shall:

3
4 (1) pay all actual operational expenses of the association, less the operational expense
5 portion of the assessments paid by lot owners other than the declarant; or

6
7 (2) pay the common expense liability allocated by the declaration to each lot owned by
8 the declarant.

9
10 (c) If the governing documents state an annual amount or rate of increase above which the
11 actual or maximum regular assessment cannot be levied without a vote of the lot owners, the board
12 may accumulate the stated amount or rate of increase for each year that the increase is not levied
13 and may levy the accumulated increases for a number of years, as if the increases had been levied
14 annually as permitted, provided the decision to accumulate increases is approved by owners
15 representing a majority of the votes present in person or by proxy at a meeting of the association.

16
17 (d) Except for assessments described by Subsections (f) and (g) and individual assessments,
18 all common expenses must be assessed against all the lots in accordance with the allocations set
19 forth in the declaration.

20
21 (e) The declaration may provide that:

22
23 (1) different types, conditions, or locations of lots are subject to different rates of
24 assessment;

25
26 (2) any common expense associated with the maintenance, repair, or replacement of
27 a limited common area must be assessed against the lot or lots to which that limited common area
28 is assigned; and

29
30 (3) any common expense or portion of a common expense benefiting fewer than all of
31 the lots must be assessed exclusively against the lots benefited.

32
33 (f) Assessments to pay a judgment against the association may be levied against only the lots
34 in the planned community at the time the judgment is entered, in proportion to the lots' common
35 expense liabilities.

36
37 (g) If any portion of the common area is damaged as a result of negligence or wilful
38 misconduct of an owner or occupant of a lot or the guest or invitee of an owner or occupant, the
39 association may assess the cost of repairing the damage against that lot only.

40
41 (h) If common expense liabilities are reallocated, common expense assessments and any
42 installment of common expense assessments not yet due must be recomputed in accordance with
43 the reallocated common expense liabilities.

44
45 (i) Each lot owner is personally liable for assessments made against the owner or the owner's
46 lot during the period of ownership of the lot. Co-owners of a lot are jointly and severally liable. A
47 lot owner is not exempt from liability for payment of an assessment by waiver of the use or
48 enjoyment of any common area or by abandonment of the lot against which the assessment is made.

49
50 (j) A past due assessment or installment of an assessment may bear interest at a lawful rate
51 established by the association.

1 (k) An association may accumulate reserve funds for an unspecified period to provide for any
2 anticipated expense of the planned community.
3

4 **Sec. 83.115. ASSOCIATION'S LIEN FOR ASSESSMENTS.** (a) An assessment levied by
5 the association against a lot or lot owner is a personal obligation of the lot owner and is secured by
6 a continuing statutory lien on the lot and on rents and insurance proceeds received by the lot owner
7 that relate to the lot.
8

9 (b) Unless a governing document specifically provides otherwise, the following types of
10 charges are enforceable as assessments under this section:
11

12 (1) regular assessments, however named, including dues or maintenance fees, levied
13 against all lots in the planned community according to the allocations stated in the declaration;
14

15 (2) special assessments levied against all lots in the planned community according to
16 the allocations stated in the declaration;
17

18 (3) neighborhood assessments, if authorized by the declaration, levied against a section
19 of lots in the planned community for common expenses or services that are particular to the section;
20

21 (4) individual assessments for common expenses that benefit fewer than all of the lots
22 and that are equitably paid by each lot according to benefit received; and
23

24 (5) any other fee or charge permitted or required of lot owners by this chapter or the
25 governing documents.
26

27 (c) Notwithstanding any other law, the association's lien for assessments has priority over any
28 other lien except:
29

30 (1) a lien for real property taxes and other governmental assessments or charges against
31 the lot;
32

33 (2) a lien or encumbrance recorded before the declaration is recorded; and
34

35 (3) a purchase money vendor's lien or a purchase money deed of trust lien recorded
36 before the date on which the assessment to be enforced becomes delinquent.
37

38 (d) Unless the declaration specifically requires an additional recording to perfect the lien or
39 as a prerequisite to foreclosure, and except as provided by Subsection (e), the association's lien for
40 assessments is created by recordation of the declaration, the recorded declaration constitutes record
41 notice of the lien and perfection of the lien, and no other recordation of a lien related instrument is
42 required to create, perfect, or foreclose the lien.
43

44 (e) If, on January 1, 2006, a lot is the homestead of the homeowner and is subject to a
45 declaration that does not contain a valid assessment lien against the lot, the lien provided by this
46 section does not attach against the lot until the lot ceases to be the homestead of the person owning
47 the lot on January 1, 2006.
48

49 (f) Foreclosure of a tax lien attached to a lot under Chapter 32, Tax Code, does not discharge
50 the association's lien for assessments under this section or under a declaration for amounts becoming
51 due to the association after the date of foreclosure of the tax lien.
52

1 (g) If a lot owner defaults in the owner's monetary obligations to the association, the
2 association may notify other lienholders of the default and the association's intent to pursue the
3 association's collection remedies.
4

5 (h) If a lot owner is delinquent in the payment of assessments to an association, at the
6 request of the association, as allowed by federal and state law, a holder of a recorded lien on the
7 lot may provide the association with information about the lot owner's debt secured by the holder's
8 lien on the lot and other relevant information. At the request of the lienholder, the association may
9 furnish the lienholder with information about the planned community and the lot owner's obligations
10 to the association.
11

12 (i) This section does not prohibit the association from:

13 (1) taking a deed in lieu of foreclosure; or

14 (2) filing suit to recover a money judgment for sums that may be secured by the lien.
15
16
17

18 **Sec. 83.116. FORECLOSURE OF ASSESSMENT LIEN.** (a) The association has the right
19 to foreclose the association's lien judicially.
20

21 (b) If the declaration creates a private power of sale for the association, the association has
22 the right to foreclose the association's lien by nonjudicial foreclosure. By written resolution, a board
23 may appoint, from time to time, an officer, director, manager, agent, trustee, or attorney of the
24 association to exercise the power of sale on behalf of the association. An association shall exercise
25 its power of sale in accordance with Section 51.002 and any additional requirements of the governing
26 documents and this chapter. This section does not create a private power of sale.
27

28 (c) Costs of foreclosure may be added to the amount owed by the owner to the association.
29

30 (d) The association may bid for and purchase the lot at the foreclosure sale as a common
31 expense.
32

33 (e) The association or the person conducting the sale for the association shall prepare,
34 execute, and deliver a deed to the purchaser of the lot. Subject to the former owner's right of
35 redemption, the deed vests title in the purchaser, including rights of use and possession of the lot.
36

37 (f) A court may not set aside a sale under this section solely because the purchase price at
38 the foreclosure sale was insufficient to fully satisfy the former owner's debt to the association.
39

40 [Sections 83.117-83.150 reserved for expansion]
41

42 **SUBCHAPTER D. PROTECTION OF OWNERS**

43
44 **Sec. 83.151. RIGHTS GUARANTEED.** Each lot owner in a planned community in this state
45 has the rights, benefits, and privileges guaranteed by the constitution and laws of the United States
46 and this state. The rights specifically listed in this subchapter are in addition to all other rights that
47 lot owners have and are not exclusive or intended to limit the rights guaranteed by the constitution
48 and laws of the United States and this state.
49

50 **Sec. 83.152. ASSOCIATION DUTIES.** (a) An association's duties to the association's
51 members include the following duties:
52

1 (1) to use ordinary care and prudence in managing the planned community and the
2 financial affairs under the association's control;

3
4 (2) to treat members fairly;

5
6 (3) to act reasonably when exercising discretionary powers; and

7
8 (4) to provide members reasonable access to information about the association, common
9 areas and other common property, and the financial affairs of the association.

10
11 (b) A member who challenges an act or decision of an association has the burden of proving
12 that:

13
14 (1) a breach of duty by the association occurred; and

15
16 (2) the breach has caused or threatens to cause injury to:

17
18 (A) the member individually; or

19
20 (B) the interests of the planned community.

21
22 **Sec. 83.153. REASONABLE RULES.** (a) To be enforceable against an owner or an
23 occupant of an owner's lot, a rule adopted by the board:

24
25 (1) may not regulate the use of a lot by a resident or the behavior of a resident on the
26 resident's lot, except to the extent the use or behavior adversely affects the appearance or use and
27 enjoyment of a common area or another lot;

28
29 (2) may not require the owner to construct or substantially modify an improvement on
30 the owner's lot that is not required of other owners by the governing documents;

31
32 (3) must be reasonable and reasonably related to the purpose for which the rule was
33 adopted;

34
35 (4) must be enforced in a manner that is not arbitrary or capricious;

36
37 (5) must be worded with sufficient clarity to inform an owner or occupant of any act or
38 omission required for compliance; and

39
40 (6) may not be contrary to other governing documents.

41
42 (b) The owner against whom the association seeks enforcement must have actual or
43 constructive notice of the rule. For an owner to have actual or constructive notice of a rule, the rule
44 must be:

45
46 (1) publicly recorded;

47
48 (2) when appropriate, posted in the planned community at a place that pertains to the
49 rule, such as pool safety rules posted at the common area pool;

50
51 (3) published periodically to owners in community-wide distributions;

1 (4) available to owners on a website maintained by or for the association; or
2

3 (5) if the rule is a response to a temporary situation that threatens persons or property,
4 communicated in any manner that is likely to be effective.
5

6 **Sec. 83.154. PROTECTION FROM FINES.** (a) A fine levied by the association must be
7 reasonable in light of the nature, frequency, and effect of the violation. If the association allows
8 fines for a continuing violation to accumulate against a lot or an owner, the association must
9 establish a maximum fine amount for a continuing violation, at which point the total fine is capped.
10

11 (b) Before an owner is liable for a fine levied by the association for a violation of a governing
12 document, the association must give the owner a written notice stating that the owner may avoid
13 the proposed fine by curing the violation within a reasonable period, for which a date certain is
14 specified, unless the owner was given notice and a reasonable opportunity to cure a similar violation
15 within the preceding 12 months.
16

17 (c) If a lot occupant other than the owner violates the governing documents, the association,
18 in addition to exercising any of the association's powers against the owner, may levy fines directly
19 against the nonowner occupant in the same manner as provided for owners.
20

21 (d) The association must give notice of a levied fine to the owner not later than the 30th day
22 after the date of levy.
23

24 **Sec. 83.155. RIGHT TO NOTICE BEFORE ENFORCEMENT.** (a) Except as provided by
25 Subsection (e), an owner is entitled to a written notice from an association before the association
26 may take action against the owner for a violation of the governing documents. The association must
27 provide an owner notice of proposed action and notice of determined action.
28

29 (b) A written notice of proposed action must:
30

31 (1) state the violation, the governing document provision being violated, and the nature
32 of the association's proposed action;
33

34 (2) inform the owner that the owner is entitled to a reasonable period to cure the
35 violation and avoid the proposed action unless the owner was given notice and a reasonable
36 opportunity to cure a similar violation within the preceding 12 months; and
37

38 (3) state that not later than the 30th day after the date of the notice, the owner may
39 request a hearing in accordance with Section 83.156.
40

41 (c) A written notice of determined action must:
42

43 (1) inform the owner of the board's decision concerning an enforcement action; and
44

45 (2) be issued not later than the 30th day after the date of the board's decision.
46

47 (d) The notices required by this section may be given by more than one method, provided that
48 a notice is given by certified mail, return receipt requested.
49

50 (e) The owner's right to notice and hearing provided by this section does not apply to, affect,
51 or toll:
52

- 1 (1) pending litigation between the association and the owner;
2
3 (2) collection of assessments;
4
5 (3) suspension of voting rights for nonpayment of assessments;
6
7 (4) suspension of common area use privileges for nonpayment of assessments;
8
9 (5) situations that in the reasonable opinion of the board are emergencies or that
10 endanger or potentially endanger persons or property; and
11
12 (6) removal of items or conditions that violate the governing documents and that may
13 be easily removed or abated by the association.
14

15 **Sec. 83.156. RIGHT TO HEARING.** (a) An owner is entitled to a hearing to discuss and
16 verify facts and to resolve a matter in issue by submitting a written request to the association not
17 later than the 30th day after the date of the association's notice of violation, fine, action, or ruling
18 addressed to an owner.
19

20 (b) The hearing may be convened before the board or, at the discretion of the board, before
21 a committee of the board or of the association appointed by the board. Appeal hearings must be
22 conducted by the board.
23

24 (c) Not later than the 20th day after the date the board receives the owner's written request
25 for a hearing under Subsection (a), the board shall notify the owner of the date, time, and place of
26 the hearing. If the hearing is to be held before a committee appointed by the board, the board's
27 notice must state that the owner has the right to appeal the committee's decision to the board.
28

29 (d) The association shall hold a hearing under this section not later than the 30th day after
30 the date the board receives the owner's written request for a hearing, and not sooner than the 10th
31 day after the date of the board's notice of hearing to the owner. The board or the owner may request
32 a postponement of a hearing. If requested, a postponement of a hearing must be granted for a
33 period of not more than 10 days. Additional postponements may be granted by agreement of the
34 parties.
35

36 (e) The owner or the association may make an audio or video recording of the hearing, may
37 be represented by an attorney at the hearing, and may require that the hearing be closed to the
38 general membership.
39

40 (f) The right to a hearing provided by this section does not apply to, affect, or toll pending
41 litigation between the association and the owner.
42

43 **Sec. 83.157. RIGHT OF APPEAL.** If an owner or owner's lot is the subject of a decision by
44 a committee of the board or a committee of the association, the owner has the right to appeal the
45 decision to the board by submitting a written request for a hearing. The owner's request for a
46 hearing must be submitted not later than the 30th day after the date on which the owner is informed
47 of the decision from which the owner appeals.
48

49 **Sec. 83.158. PAYMENT PLAN FOR DEBT.** If the owner of a lot against which assessments
50 are delinquent requests a payment plan, the association must inform the owner of the association's
51 standards, if any, for payment plans, and must accept a plan that meets the standards.
52

1 **Sec. 83.159. LIMITATIONS PERIODS.** (a) If the cost to the association of collecting a
2 debt substantially exceeds the base amount of the debt, the association may postpone collection of
3 the debt if postponement does not jeopardize the association's claim under a statute of limitations.
4

5 (b) This subsection applies only if the limitations period of the owner's debt to the association
6 is less than seven years. The owner of a lot against which an assessment has been delinquent for
7 at least three years but not more than four years may petition the board for an extension of real
8 property lien, under Section 16.036, Civil Practice and Remedies Code. The association may execute
9 and record one or more extension agreements against the lot if the board deems the extension of
10 the limitations period to be in the best interests of the owner and the association.
11

12 **Sec. 83.160. PROTECTION AGAINST NONJUDICIAL FORECLOSURE.** (a) This
13 subsection applies if an association has a private power of nonjudicial foreclosure under the
14 declaration.
15

16 (b) An association may not use a nonjudicial foreclosure to foreclose a lien for a debt
17 consisting solely of fines, late fees, interest, attorney's fees, or a combination of these.
18

19 (c) An association must give an owner at least three written notices of the owner's delinquency
20 and of the association's intent to foreclose before the association posts the lot for nonjudicial
21 foreclosure. At least 15 days must lapse between issuance of each of the three notices. The first
22 notice must be given not later than the 90th day before the date the association posts the lot for
23 foreclosure. The second notice must be given not later than the 45th day before the date the
24 association posts the lot for foreclosure. The third notice must be given not later than the 20th day
25 before the date the association posts the lot for foreclosure. A notice under this subsection may be
26 issued by an officer, director, manager, or attorney of the association, or by any combination of these
27 persons.
28

29 (d) Each notice under Subsection (c) must:

30 (1) identify the lot involved in the intended foreclosure;

31 (2) state the amount required to cure the debt;

32 (3) state that failure to cure the debt may result in foreclosure of the assessment lien,
33 loss of title to and possession of the lot, and liability for additional expenses, including attorney's
34 fees;

35 (4) inform the owner of the owner's right to make a payment plan with the association;

36 (5) identify the proper place for payment to cure the debt; and

37 (6) provide the name and phone number of the person or company with whom the
38 owner may communicate about the debt.
39

40 (e) Each notice under Subsection (c) must be delivered by certified mail, return receipt
41 requested, and by regular first-class mail. A notice is presumed delivered when deposited in the
42 United States mail, postage prepaid, and addressed to the owner at the owner's last known address
43 as shown on the association's records. The affidavit of a person knowledgeable of the facts to the
44 effect that delivery was completed is prima facie evidence of delivery.
45

46 (f) At any time before a nonjudicial foreclosure sale, an owner may avoid foreclosure by paying
47
48
49
50
51
52

1 all amounts due the association, subject to any requirement by the association for payment in cash
2 or cash equivalent.

3
4 (g) An owner who disputes the validity or amount of the association's claim may tender full
5 payment under protest by:

6
7 (1) submitting the owner's challenge in writing to the association not later than the 30th
8 day after the date the owner tendered payment of the debt to avoid foreclosure; and

9
10 (2) requesting a hearing before the board.

11
12 **Sec. 83.161. REPORT THAT FORECLOSURE OCCURRED.** (a) The notice requirements
13 of this section apply to the sale of an owner's lot by a sheriff or constable under a judgment obtained
14 by an association, as well as to a nonjudicial foreclosure under a private power of sale.

15
16 (b) Not later than the 30th day after the date of a foreclosure sale, the association shall give
17 the former owner of the foreclosed lot a written report containing date of the sale, the sale price,
18 and the name and address of the purchaser and informing the former owner of the owner's right of
19 redemption under this chapter. If the foreclosure sale deed contains the information required to be
20 in the report, a copy of the executed deed may serve as the report. Failure to provide this report
21 does not void a deed to a purchaser.

22
23 (c) The association shall send the report required by Subsection (a) by certified mail, return
24 receipt requested, to the former owner at the address shown on the association's records at the time
25 of the foreclosure and may also send the report to any other address the association has reason to
26 believe is effective for the former owner.

27
28 (d) Not later than the 30th day after the date the association sends the report required by
29 Subsection (c), the association shall publicly record an affidavit stating the date on which the report
30 was sent and containing a legal description of the lot. Any person is entitled to rely on the
31 information contained in the publicly recorded affidavit.

32
33 **Sec. 83.162. RIGHT OF REDEMPTION AFTER FORECLOSURE.** (a) The former owner
34 of a lot that is purchased at a judicial or nonjudicial foreclosure sale of the association's lien for
35 assessments may redeem the lot not later than the 180th day after the date the association delivers
36 to the former owner the report of the outcome of the foreclosure sale. During the redemption
37 period, the purchaser of the lot may not transfer ownership of the lot to any person other than the
38 redeeming former owner.

39
40 (b) To redeem a lot purchased by the association at the foreclosure sale, the former owner
41 must pay to the association:

42 (1) all amounts due the association at the time of the foreclosure sale;

43
44 (2) interest from the date of the foreclosure sale to the date of redemption at an annual
45 interest rate of 10 percent;

46
47 (3) reasonable attorney's fees and other costs incurred by the association in foreclosing
48 the lien and conveying the lot;

49
50 (4) any assessment levied against the lot by the association after the foreclosure sale;

1 (5) any reasonable cost incurred by the association as owner of the lot, including
2 mortgage payments, property taxes, insurance payments, and costs for repairs, eviction, and leasing;
3 and
4

5 (6) redemption costs incurred by the association, including reasonable attorney's fees.
6

7 (c) To redeem a lot purchased by a person other than the association at the foreclosure sale,
8 the former owner must pay:
9

10 (1) to the purchaser:
11

12 (A) the amount paid by the purchaser to the association at the foreclosure sale,
13 all assessments levied against the lot by the association after the date of foreclosure sale and paid
14 by the purchaser, interest on the purchase price from the date of the foreclosure sale to the date of
15 redemption at an annual interest rate of 10 percent, and all reasonable costs incurred by the
16 purchaser as owner of the lot, including mortgage payments, property taxes, insurance payments,
17 and costs for repairs, eviction, and leasing; and
18

19 (B) a redemption premium of five percent of the aggregate total of the amount
20 described by Paragraph (A); and
21

22 (2) to the association:
23

24 (A) the difference between the purchase price paid to the association by the
25 purchaser and all amounts due the association at the time of foreclosure sale;
26

27 (B) interest from the date of the foreclosure sale to the date of redemption at an
28 annual interest rate of 10 percent;
29

30 (C) reasonable attorney's fees and other costs incurred by the association in
31 foreclosing the lien and conveying the lot;
32

33 (D) any assessment levied against the lot by the association after the foreclosure
34 sale and not paid by the purchaser; and
35

36 (E) redemption costs incurred by the association, including reasonable attorney's
37 fees.
38

39 (d) If the lot is owned by more than one person at time of foreclosure, redemption by any
40 co-owner is redemption by and for all co-owners. On redemption, the purchaser shall prepare a deed
41 to the former owner or owners as the names and interests of the former owners appeared in the
42 public record at time of foreclosure. The deed must be executed by the association and by the
43 purchaser. If the association or the purchaser fails or refuses to provide and execute a deed, the
44 redeeming former owner may record an affidavit stating the former owner has exercised the right
45 of redemption under this section.
46

47 (e) The exercise of the right of redemption is not effective against a subsequent purchaser or
48 lender for value without notice of the redemption after the redemption period expires unless the
49 redeeming former owner records the deed from the purchaser or an affidavit stating that the former
50 owner has exercised the right of redemption.
51

52 (f) A lot that has been redeemed remains subject to all liens and encumbrances on the lot

1 before foreclosure.

2
3 (g) Any lease entered into by the purchaser is subject to the former owner's:

4
5 (1) right of redemption provided by this section; and

6
7 (2) right to reoccupy the lot immediately after the redemption.

8
9 (h) Any and all rents and other income collected from the lot by the purchaser from the date
10 of foreclosure sale to the date of redemption belong to the purchaser. If the association is the
11 purchaser, the rents and income must be credited against the redemption amount required under
12 Subsection (b).

13
14 (i) The purchaser or a person to whom the purchaser transfers a lot purchased at a foreclosure
15 sale may presume conclusively that the former owner did not redeem the lot if the redeeming former
16 owner does not publicly record:

17
18 (1) the deed from the purchaser to the former owner; or

19
20 (2) an affidavit containing a legal description of the lot and stating that the former owner
21 has redeemed the lot from the purchaser.

22
23 (j) If the purchaser is not the association, before executing a deed transferring the lot to the
24 redeeming former owner, the purchaser shall obtain an affidavit from the association or the
25 association's authorized agent stating that all amounts owed the association under Subsection (c)(2)
26 have been paid. The association shall provide the purchaser with the affidavit not later than the 10th
27 day after the date the association receives all amounts owed to the association under Subsection
28 (c)(2). Failure of a purchaser to comply with this subsection does not affect the validity of a
29 redemption by a redeeming former owner.

30
31 (k) If the redeeming former owner makes partial payment of amounts due the association at
32 any time before the redemption period expires but fails to pay all amounts necessary to redeem the
33 lot before the redemption period expires, the association shall refund any partial payments to the
34 former owner by mailing payment to the former owner's last known address as shown in the
35 association's records not later than the 30th day after the expiration date of the redemption period.

36
37 (l) If the former owner sends by certified mail, return receipt requested, a written request to
38 redeem the lot on or before the last day of the redemption period, the former owner's right of
39 redemption is extended until the 10th day after the date the purchaser provides written notice to the
40 former owner of the amounts that must be paid to redeem the lot.

41
42 (m) After the redemption period and any extended redemption period under Subsection (l)
43 expires, the purchaser shall record an affidavit in the real property records of the county in which
44 the property is located stating that the lot owner did not redeem the property during the redemption
45 period or any extended redemption period.

46
47 **Sec. 83.163. DISPUTED CHARGES.** An owner may dispute any charge levied against the
48 owner or the owner's lot by the association by notifying the association in writing not later than the
49 30th day after the date the owner is informed of the charge. An owner may pay disputed charges
50 in full under protest and then request a hearing before the board in accordance with Section 83.156.
51 A charge that is not disputed is presumed to be valid.
52

1 **Sec. 83.164. LIMITS ON LIABILITY FOR ATTORNEY'S FEES AND CERTAIN OTHER**
2 **COSTS.** (a) An owner is not liable to an attorney for a fee or expense arising under this chapter
3 or a governing document that is charged directly to the owner or against the owner's lot by the
4 attorney. A provision in a contract between the association and an attorney that authorizes the
5 attorney to seek payment directly from the owner is not enforceable against the owner.
6

7 (b) An owner is liable to an association for reimbursement of attorney's fees and other costs
8 incurred by the association to enforce the governing documents against the owner or the owner's
9 lot only if:

10 (1) the owner receives prior written notice from the association that the owner will be
11 liable to the association for reimbursement of attorney's fees and enforcement costs if the violation
12 or assessment delinquency is not cured by a date certain stated in the notice;

13 (2) the attorney's fees and legal expenses are reasonable in amount and appropriate,
14 customary, or necessary for the circumstances; and

15 (3) if Section 83.155 is applicable, the attorney's fees and enforcement costs are
16 incurred after the conclusion of any hearing under Section 83.156 or, if the owner does not request
17 a hearing under that section, after the date by which the owner must request a hearing.
18

19 (c) An owner is entitled to receive from the association copies the invoices for attorney's fees
20 and enforcement costs for which the association seeks reimbursement from the owner not later than
21 the 30th day after the date the association receives the owner's written request for the records.
22

23 (d) If the governing documents authorize nonjudicial foreclosure of an association's
24 assessment lien, the amount of attorney's fees that an association may include in a nonjudicial
25 foreclosure sale for an indebtedness covered by an association's assessment lien is limited to the
26 greater of:
27

28 (1) one-third of the amount of the actual costs and assessments, excluding attorney's
29 fees, plus interest and court costs; or
30

31 (2) \$2,500.
32

33 (e) This section does not apply to attorney's fees or enforcement costs awarded by a court
34 or through other means provided by law to the association for the claim, recovery, or collection of
35 attorney's fees and enforcement costs in excess of the amounts prescribed by this section.
36

37 **Sec. 83.165. LIMITS ON THIRD-PARTY FEES.** (a) As used in this section, "third party"
38 means an agent, manager, contractor, or assignee of the association.
39

40 (b) This section:
41

42 (1) does not apply to attorney's fees; and
43

44 (2) may not be construed to regulate with whom an association or an owner may
45 contract for goods and services.
46

47 (c) An owner is not liable to a third party for a fee or expense arising under this chapter or
48 a governing document that is charged directly to the owner or against the owner's lot by the third
49 party. A provision in a contract between the association and a third party that authorizes the third
50 party.
51
52

1 party to seek payment directly from the owner is not enforceable without the owner's execution of
2 the contract.

3
4 (d) An owner is not liable to the association for reimbursement of a fee or expense charged
5 by a third party to the association unless:

- 6
7 (1) the fee or expense is reasonable in amount;
8
9 (2) the fee or expense is appropriate, customary, or necessary for the circumstances;
10
11 (3) the association has paid or is scheduled to pay the fee or expense; and
12
13 (4) the owner has actual or constructive notice of the fee or expense.

14
15 (e) An owner must reimburse an association directly for third-party fees or expenses.

16
17 (f) Any money collected by a third party for the benefit or account of the association must be
18 deposited into an account in the name of the association at a financial institution that is maintained
19 by the association or the association's managing agent.

20
21 **Sec. 83.166. LIMITS ON SUSPENDED VOTE.** (a) The vote allocated to a lot may not be
22 suspended at a time during which the number of lots with suspended voting rights exceeds 20
23 percent of the lots in the planned community. If suspensions exceed 20 percent of the lots in the
24 planned community, all lots are eligible to vote.

25
26 (b) The board may decline to suspend voting rights even if a governing document appears to
27 require suspension under certain circumstances.

28
29 (c) An owner whose voting rights are suspended by the board has the following membership
30 and limited voting rights:

31
32 (1) to receive notices of association meetings, to attend association meetings, to
33 participate in discussion at association meetings, and to be counted towards a quorum at association
34 meetings under Section 83.107(a);

35
36 (2) to serve as the appointed proxy of an owner entitled to vote;

37
38 (3) to be counted as a petitioner for a special meeting of the association;

39
40 (4) to attend open board meetings;

41
42 (5) to vote for the removal of a director and for the replacement of the removed
43 director; and

44
45 (6) to vote for the first election of directors following termination of the declarant control
46 period.

47
48 **Sec. 83.167. ASSOCIATION ACCOUNTS.** Any money paid by an owner to or for the
49 benefit of the association, including reimbursement of third party and attorney's fees, must be
50 deposited into an account at a financial institution in the name of the association that is maintained
51 by the association or the association's managing agent. The signatories on the account must be
52 officers or directors of the association, the association's manager, or managing agent or employees

1 of the managing agent.
2

3 **Sec. 83.168. LIMIT ON LIABILITY.** An owner is not liable, solely by reason of being a lot
4 owner, for injury or damage arising out of the condition or use of a common area. A cause of action
5 arising from an act or omission of the association acting through the association's board must be
6 brought against the association and may not be brought against the individual lot owners. The
7 liability of an owner for a judgment against the association must be allocated in proportion to the
8 common expense liability for the owner's lot.
9

10 **Sec. 83.169. MEETING RIGHTS.** (a) An owner may attend meetings of the association and
11 meetings of the board, subject to the right of the board to adjourn the open meeting of the board
12 and reconvene in executive session as provided by Subsection (d).
13

14 (b) An owner may speak at meetings of the association, subject to reasonable limitations on
15 time that are established by the board.
16

17 (c) The association must convene at least one meeting of owners each year. The association
18 may also convene special meetings of owners from time to time. Meetings of the association may
19 be called by the president or by a majority of the board. If requested by owners to which at least
20 20 percent of the votes in the association are allocated, or any lower percentage specified in the
21 governing documents, the president, the secretary, or the board shall call a meeting of the
22 association. If the president, the secretary, and the board fail or refuse to issue a notice for a
23 meeting of the association before the 30th day after the date the association receives a written
24 request from the required percentage of owners, any director or member of the association may
25 issue notice for a meeting according to the meeting notice requirements in the governing documents.
26

27 (d) To convene in executive session, the board must announce at the open board meeting the
28 general nature of any business to be considered in executive session. The board shall maintain
29 minutes of the executive session by generally noting the matter discussed and reporting any decision
30 made in executive session. The limited purposes for which the board may convene in executive
31 session are:
32

33 (1) to consult with an attorney for the association;
34

35 (2) to discuss matters or consider actions involving personnel;
36

37 (3) to discuss proposed, threatened, or pending litigation, arbitration, or administrative
38 proceedings, if the board determines that closing the meeting is necessary to discuss strategy or
39 otherwise protect the position of the board or association or the privacy of a lot owner or occupant
40 of a lot;
41

42 (4) to discuss matters involving criminal activity arising within the planned community,
43 if the board determines that closing the meeting is necessary to protect the privacy of the victim or
44 that the open meeting would jeopardize investigation of the activity; or
45

46 (5) to discuss matters that are to remain confidential by written request of the affected
47 parties and with agreement of the board.
48

49 (e) An owner who is the subject of a hearing in executive session may ask the board to keep
50 the content of the hearing confidential and to provide the owner with the board's decision in writing.
51 The request may be made by the owner's designated representative. The decision whether to honor
52 the confidentiality request is at the discretion of the board.

1 (f) Notices of meetings of the association and of the board must be given as provided by the
2 governing documents.

3
4 (g) On the written request of an owner, the association shall inform the owner of the time and
5 place of the next regular or special meeting of the board. If the association representative to whom
6 the request is made does not know the time and place of the meeting, the association promptly shall
7 obtain the information and disclose the information to the owner or inform the owner of where the
8 information may be obtained.

9
10 **Sec. 83.170. ACCESS TO ASSOCIATION RECORDS.** (a) An owner, on written request
11 stating the purpose of the inspection, is entitled to inspect and copy, in person or by agent,
12 accountant, or attorney, by appointment, at the association's registered office or the association's
13 principal office in this state, at a reasonable time, and for a proper purpose, the books and records
14 of the association relevant to the stated purpose.

15
16 (b) The board may adopt a policy by which the association may limit the availability of, or
17 decline to make available, the following records for inspection and photocopying by an owner or the
18 owner's agent:

19
20 (1) any association file or record that is older than four years;

21
22 (2) personnel records of an association employee;

23
24 (3) records relating to the owner or resident of another lot;

25
26 (4) minutes of an executive session of the board;

27
28 (5) records pertaining to threatened or pending litigation; and

29
30 (6) records from the association's attorney marked "confidential" or "privileged" or
31 bearing some similar notation.

32
33 (c) An attorney's files and records relating to the association are not records of the association
34 and are not subject to inspection by owners or to production in a legal proceeding for examination
35 by owners.

36
37 (d) The association may require an owner to pay a reasonable fee for copies of documents or
38 records requested by the owner.

39
40 **Sec. 83.171. REMOVAL OF DIRECTORS.** (a) Notwithstanding any provision of the
41 governing documents to the contrary, the owners may remove any director, other than a director
42 appointed by the declarant, with or without cause:

43
44 (1) at any special or annual meeting of the association called for the purpose of
45 removing one or more directors, at which a quorum is present, by the affirmative vote of the greater
46 of:

47
48 (A) a majority of the votes present in person or by proxy; or

49
50 (B) owners representing at least 40 percent of the votes in the association; or

51
52 (2) by petition or ballot, by the written consent of owners representing at least a

1 majority of votes in the association.
2

3 (b) A director whose removal has been proposed must be given an opportunity to be heard
4 at the meeting.
5

6 (c) If removal of a director occurs at an association meeting, the owners may, at that same
7 meeting, elect a director to fill the vacancy created.
8

9 (d) If removal of a director occurs by petition or ballot, the vacancy must be filled in
10 accordance with the terms of the governing documents.
11

12 (e) Every owner is eligible to vote for the removal of a director and for the replacement of the
13 removed director.
14

15 (f) A director may be removed by the owners and may not be removed by the board, unless
16 the governing documents specifically permit removal of a director by the other directors for certain
17 breaches of conduct or breaches of the governing documents.
18

19 **Sec. 83.172. RIGHT OF ACCESS.** Unless the declaration specifically provides otherwise,
20 each owner has a perpetual easement over the streets in the planned community, as may be
21 reasonably required, for ingress to and egress from the owner's lot.
22

23 **Sec. 83.173. RIGHT OF ACTION.** Each owner, as well as the association and any person
24 adversely affected by a violation of this chapter or the governing documents, has a cause of action
25 against a person who fails or refuses to comply with the person's duties under this chapter or the
26 governing documents or with decisions made by the association. Each owner also has a cause of
27 action against the association for the association's failure to comply with this chapter, the governing
28 documents, or the association's decisions. The court shall award to a prevailing party reasonable
29 attorney's fees in addition to the party's costs and claims.
30

31 **Sec. 83.174. WRITTEN COMMUNICATIONS.** (a) The owner or co-owners of a lot must
32 at all times maintain an effective mailing address in the records of the association. Not later than the
33 30th day after an owner changes the owner's mailing address, the owner must notify the association
34 of the change in writing and in a manner that clearly informs the association that the owner is
35 communicating a change of address. If the association does not have an effective address for an
36 owner, the mailing address of the lot is effective as the mailing address of the owner.
37

38 (b) The association may not prohibit an owner from communicating directly with other owners.
39 At least once a year, the association shall publish a list of owners and each owner's mailing address
40 as shown on the records of the association. The association shall make the owners mailing list
41 available to any owner on written request.
42

43 **Sec. 83.175. DISPUTE RESOLUTION.** (a) The association shall publish procedures for
44 attempting to resolve disputes by use of fair, reasonable, affordable, and expeditious processes. The
45 procedures established by the association must provide opportunities for notification, negotiation,
46 and one or more nonjudicial procedures that involve a neutral party in the dispute resolution,
47 including mediation, neutral evaluation, conciliation, arbitration, or any other method allowed under
48 Chapter 154, Civil Practice and Remedies Code. The form of dispute resolution chosen by the parties
49 must be nonbinding, unless all parties to the dispute consent to a binding form of dispute resolution.
50

51 (b) All costs associated with the dispute resolution process, including the use of a neutral
52 party, shall be shared equally by the parties to the dispute. In the sharing of costs relating to

1 dispute resolution:

2
3 (1) if the lot owner is a party, multiple co-owners of the lot shall be considered one
4 party, unless the dispute is between or among the co-owners of the lot; and

5
6 (2) if the association is a party, all directors, officers, managers, employees, and
7 managing agents of the association shall be considered one party, unless the dispute is between or
8 among the members of that party.

9
10 (c) To support the use of alternate forms of dispute resolution for all or certain types of
11 litigation, a governing document may provide constraints on the initiation of litigation by the
12 association, including provisions requiring the approval of a percentage of owners or the use of
13 alternate dispute resolution as a prerequisite to the inception of litigation by the association.

14 [Sections 83.176-83.200 reserved for expansion]

15 16 17 **SUBCHAPTER E. PROTECTION OF PURCHASERS**

18
19 **Sec. 83.201. TYPES OF CONVEYANCES.** Depending on the parties to the conveyance and
20 when the conveyance occurs, the conveyance of a lot has only one of the three following
21 designations, each of which has its own disclosure requirements:

22
23 (1) "lot sale" means the conveyance of a lot, during the development period, to a person
24 in the business of selling lots for the person's own account, including a conveyance from a declarant
25 to a successor declarant, from a declarant to a builder, or from a builder to another builder;

26
27 (2) "new home sale" means the conveyance of a lot, during the development period, by
28 a declarant or by a builder to a purchaser; and

29
30 (3) "resale" means the conveyance of a lot by a homeowner to a purchaser.

31
32 **Sec. 83.202. APPLICABILITY OF SUBCHAPTER.** (a) Except as provided by Subsection
33 (b), this subchapter applies to each lot subject to this chapter.

34
35 (b) A notice of membership, a planned community information statement, and a resale
36 package are not required to be prepared or delivered in the case of a conveyance:

37
38 (1) that is a lot sale;

39
40 (2) between or among co-owners;

41
42 (3) that is a gift;

43
44 (4) by a fiduciary in the course of administering a decedent's estate, guardianship,
45 conservatorship, receivership, or trust;

46
47 (5) under court order;

48
49 (6) to or by a government or governmental agency;

50
51 (7) to the association;

52

- 1 (8) by a trustee in bankruptcy;
2
3 (9) by foreclosure or deed in lieu of foreclosure;
4
5 (10) to a spouse or a person in the lineal line of consanguinity of the seller or transferor;
6
7 (11) that is a mineral interest, leasehold interest, or security interest; or
8
9 (12) that may be canceled by the purchaser at any time, for any reason, and without
10 penalty.
11

12 (c) Although a resale package is not required for a new home sale, the association may
13 provide a resale package to a purchaser of a new home if the seller fails to or refuses to provide a
14 planned community information statement to the purchaser. The association may charge a
15 reasonable fee for preparing and delivering a resale package to a new home purchaser if the seller
16 or purchaser, in writing, requests a resale package from the association and agrees to pay for the
17 cost of the resale package.
18

19 **Sec. 83.203. DELIVERY METHODS ALLOWED.** Any document or disclosure required by
20 this subchapter to be delivered to a purchaser may be provided in electronic form, including a
21 computer diskette or an Internet website address from which the document or disclosure may be
22 printed or downloaded, and may be delivered by any customary method, including by electronic mail.
23 If requested by a purchaser, the seller shall provide the required document or disclosure in a paper
24 form. A purchaser may not be charged for the seller's cost of production or delivery, regardless of
25 the method used.
26

27 **Sec. 83.204. SELLER'S NOTICE OF MEMBERSHIP.** (a) A seller of a lot shall give the
28 purchaser of the lot a written notice that reads substantially similar to the following:
29

30 **NOTICE OF MEMBERSHIP IN PLANNED COMMUNITY CONCERNING**
31 **THE PROPERTY AT (street address) IN (name of planned community)**
32

33 As a purchaser of a lot or home in the planned community in which this property is located,
34 you are obligated to be a member of an owners association. Documents governing the
35 establishment, maintenance, operation, use, and occupancy of lots in this planned community have
36 been or will be recorded in the real property records of the county in which this planned community
37 is located. Copies of the governing documents may be obtained from the county clerk.
38

39 You are obligated to pay assessments to the owners association, which has a lien against your
40 property for nonpayment of an assessment. The amount of the assessments are subject to change.
41 Your failure to pay the assessments could result in foreclosure on your property.
42

43 Most planned communities are subject to architectural standards. This means that construction
44 or modification of all improvements must be approved by the owners association or an architectural
45 control committee any construction or work on your property.
46

47 Date: _____ Signature of Purchaser _____
48

49 (b) If the lot is located in a planned community within a master planned community, the seller
50 must give the purchaser a notice for each planned community in which the lot is located.
51

52 (c) A seller shall deliver the notice required by this section to the purchaser before the date
the executory contract binds the purchaser to purchase the property. The notice may be given
separately, as part of the contract during negotiations, or as part of any other disclosure the seller

1 delivers to the purchaser, including the planned community information statement or the resale
2 package.

3
4 **Sec. 83.205. NOTICE REQUIRED FOR NEW HOME SALES.** (a) For every new home sale,
5 unless exempt under Section 83.202(b), a seller shall furnish to a purchaser a planned community
6 information statement prepared by the declarant.

7
8 (b) A declarant may transfer responsibility for preparation of all or a part of the planned
9 community information statement to a successor declarant, a builder, or a person in the business of
10 selling real property who intends to offer lots in the planned community for the person's own
11 account, provided that on the transfer, the declarant shall provide the transferee with any
12 information necessary to enable the transferee to prepare a planned community information
13 statement.

14
15 (c) If a declarant did not prepare any part of a planned community information statement that
16 the declarant delivers, the declarant is not liable for any false or misleading statement or any
17 omission of material fact unless the declarant actually knew or should have known of the statement
18 or omission.

19
20 (d) The declarant or the transferee is liable for any false or misleading statement or for any
21 omission of material fact in the portion of the planned community information statement that the
22 declarant or transferee prepared.

23
24 (e) A builder who delivers to a purchaser a planned community information statement
25 prepared by the declarant or the declarant's transferee:

26
27 (1) is not liable for any false or misleading statement or any omission of material fact
28 in the planned community information statement unless the builder actually knew or should have
29 known of the statement or omission; and

30
31 (2) may deliver to a purchaser additional information about the planned community if
32 the information is executed by the builder or is otherwise identifiable as not having been prepared
33 by the declarant.

34
35 **Sec. 83.206. PLANNED COMMUNITY INFORMATION STATEMENT.** (a) A planned
36 community information statement is an assembly of materials that must contain:

37
38 (1) a copy of the plat or instructions on how the purchaser may obtain or view a copy
39 of the plat;

40
41 (2) a copy of the governing documents other than the plat, which may be in draft form;

42
43 (3) if the planned community is subject to a master association, a copy of the governing
44 documents of the master association or instructions on how the purchaser may obtain those
45 governing documents;

46
47 (4) copies of leases and contracts, other than loan documents, that are required by the
48 declarant to be signed by purchasers at closing;

49
50 (5) a proposed or actual budget for the association for a full fiscal year and the projected
51 regular common expense assessment for each lot or each type of lot;

1 (6) a certificate signed by the person who prepared the budget containing:
2

3 (A) a statement of the amount included, or a statement that no amount is
4 included, in the budget as a reserve;
5

6 (B) a statement of the budget's assumptions concerning the size of the planned
7 community and occupancy and inflation factors; and
8

9 (C) a statement of the person's relationship to the declarant;
10

11 (7) a planned community disclosure statement; and
12

13 (8) any other information the declarant desires to include.
14

15 (b) The planned community disclosure statement must contain or accurately disclose:
16

17 (1) the name and principal address of the declarant;
18

19 (2) the name, address, and telephone number of the declarant's representative or agent
20 who responds to inquiries from purchasers;
21

22 (3) the name of the planned community and, if different, the name of each platted
23 addition or subdivision in the planned community as of the date of the statement;
24

25 (4) a statement that the planned community is subject to this chapter;
26

27 (5) a statement that by purchasing a lot, each purchaser is subject to mandatory
28 membership in the association and an assessment obligation that is secured by a foreclosable
29 assessment lien against the lot;
30

31 (6) the amount and frequency of the regular assessment for each lot or type of lot,
32 unless that information is published elsewhere in the planned community information statement;
33

34 (7) if the planned community is subject to a master association, information about the
35 purchasers' assessment obligation to the master association or instructions on how the purchaser
36 may obtain the information;
37

38 (8) a disclosure of whether any portion of the planned community is located outside the
39 corporate boundaries of a municipality, in which case the notice regarding possible annexation
40 required by Section 5.011, Property Code, may be included in the planned community information
41 statement;
42

43 (9) the name and type of each taxing authority or assessing jurisdiction that may
44 exercise authority over the planned community on the date of the statement;
45

46 (10) information about any proposed taxing or assessing entity that will have jurisdiction
47 over the planned community, of which the declarant has actual knowledge on the date of the
48 statement, or a statement that none are known to the declarant;
49

50 (11) a statement that any common area will be conveyed to the association free of
51 encumbrance except for accruing property taxes, or a general description of each lien, lease, or
52 encumbrance that may be expected to affect title to the common area after conveyance to the

1 association;

2
3 (12) current or expected fees or charges to be paid by owners for use of a common area
4 or other facilities related to the planned community;

5
6 (13) if the association maintains a portion of the lot or the improvements on the lot, a
7 general description of the types of maintenance provided by the association;

8
9 (14) if the association insures a significant portion of the improvements on a lot, a
10 general description of the insurance coverage provided for the benefit of lot owners;

11
12 (15) the name and contact information of the person or company that manages the
13 association, and a description of the relationship between that person or company and the declarant,
14 or a statement that the management of the association has not been determined;

15
16 (16) a disclosure of any right or reservation the declarant expects to retain in the
17 planned community after the development period; and

18
19 (17) any other information the declarant desires to include.

20
21 (c) A declarant shall amend the planned community information statement to reflect any
22 material and substantial change in the information reflected in the statement's contents. An
23 amendment or supplement of a dedicatory instrument that adds real property to the planned
24 community is not a material or substantial change.

25
26 (d) A purchaser who has received a planned community information statement may request,
27 in writing, a copy of any amendment, which the declarant shall furnish at the declarant's sole
28 expense.

29
30 **Sec. 83.207. PURCHASER'S RIGHT TO CANCEL.** (a) If a resale purchaser has not
31 received from the seller the governing documents required as part of the resale package before the
32 purchaser executes a contract of sale or if the contract does not contain an underlined or bold-print
33 provision acknowledging the purchaser's receipt of the governing documents and recommending that
34 the purchaser read the governing documents before executing the contract, the purchaser may
35 cancel the contract before the sixth day after the date the purchaser receives the governing
36 documents.

37
38 (b) If a purchaser has not received a resale certificate before executing a contract of sale, the
39 purchaser may cancel the contract before the sixth day after the date the purchaser receives the
40 resale certificate or executes a waiver under Section 83.208(j), whichever occurs first.

41
42 (c) If a purchaser of a new residence has not received the planned community information
43 statement before the purchaser executes a contract of sale or if a contract does not contain an
44 underlined or bold-print provision acknowledging the purchaser's receipt of the planned community
45 information statement and recommending that the purchaser read the planned community
46 information statement before executing the contract, the purchaser may cancel the contract before
47 the sixth day after the date the purchaser receives the planned community information statement.

48
49 (d) If a resale purchaser or a purchaser of a new residence has not received the seller's notice
50 of obligations before the purchaser executes a contract of sale, the purchaser may cancel the
51 contract before the sixth day after the date the purchaser receives the notice.

1 (e) If a purchaser elects to cancel a contract under Subsection (a), (b), (c), or (d), the
2 cancellation must be by hand-delivered written notice of cancellation to the seller or by mailing notice
3 of cancellation by certified mail, return receipt requested, to the seller or the seller's agent for service
4 of process within the six-day cancellation period. Cancellation under this subsection is without
5 penalty, and all payments made by the purchaser before cancellation must be refunded to the
6 purchaser.
7

8 (f) A purchaser may not be required to close until the purchaser is given copies of the
9 governing documents.
10

11 **Sec. 83.208. RESALE OF LOT.** (a) Except in the case of a new home sale, or unless
12 exempt under Section 83.202(b), a lot owner shall furnish to a purchaser before the execution of a
13 contract for sale, or otherwise before the conveying of the lot, a resale package that must contain:
14

15 (1) a copy of the plat or instructions on how the purchaser may obtain or view a copy
16 of the plat;
17

18 (2) a copy of the other governing documents;
19

20 (3) if the planned community is within a master planned community, a copy of the
21 governing documents of the master planned community or instructions on how the purchaser may
22 obtain those governing documents;
23

24 (4) a copy of the current operating budget of the association;
25

26 (5) a copy of the most recent balance sheet of the association;
27

28 (6) a copy of a current certificate of property and liability insurance maintained by the
29 association for any common area;
30

31 (7) a copy of a current certificate of property and liability insurance, if any, maintained
32 by the association covering the lots for the benefit of the lot owners; and
33

34 (8) a resale certificate that must have been prepared not earlier than three months
35 before the date the certificate is delivered to the purchaser.
36

37 (b) A resale certificate must be signed and dated by an officer or authorized agent of the
38 association and must contain statements of:
39

40 (1) any right of first refusal or other restraint contained in the governing documents that
41 restricts the right to transfer a lot;
42

43 (2) any restraint contained in the governing documents that restricts or prohibits the
44 owner's right to use or occupy the lot or to lease the lot to another person;
45

46 (3) the frequency and amount of the periodic common expense assessment for the lot;
47

48 (4) the amount of any special assessment against the lot that becomes due and payable
49 on a future date;
50

51 (5) the total amount owing and unpaid by the owner for the lot;
52

1 (6) the amount and nature of any capital expenditure approved by the association for
2 the current and succeeding fiscal years;

3
4 (7) the amount of any reserve for capital expenditures;

5
6 (8) if the planned community is in a master planned community, information about the
7 purchasers' assessment obligation to the master association or instructions on how the purchaser
8 may obtain the information;

9
10 (9) any pending sale or encumbrance of a common area;

11
12 (10) any unsatisfied judgments against the association;

13
14 (11) the style, case number, and nature of any pending suit against the association;

15
16 (12) a narrative description of any insurance coverage provided by the association for
17 the benefit of lot owners;

18
19 (13) whether the board has actual knowledge that any condition on the lot or the limited
20 common area assigned to the lot violates the governing documents and a description of that
21 violation;

22
23 (14) whether the board has received actual notice from a governmental authority
24 concerning violations of health or building codes with respect to a common area, the lot, or a limited
25 common area assigned to the lot that have not been cured and a description or copy of each notice
26 described by this subdivision;

27
28 (15) the remaining term of any leasehold estate affecting the planned community and
29 any provisions governing an extension or renewal of the lease;

30
31 (16) a disclosure of whether the association is subject to the period of declarant control;

32
33 (17) a disclosure of whether the development period is active or expired or has
34 terminated;

35
36 (18) a disclosure of whether the lot is located outside the corporate boundaries of a
37 municipality, in which case the notice regarding possible annexation required by Section 5.011,
38 Property Code, may be included in the resale certificate;

39
40 (19) the nature and amount of each transfer-related fee payable to the association or
41 the association's managing agent; and

42
43 (20) the name, mailing address, and telephone number of the association's manager,
44 managing director, or managing agent.

45
46 (c) Unless specifically provided otherwise by a governing document, the association is not
47 required to inspect the lot before issuing a resale certificate.

48
49 (d) The association may charge a reasonable fee for preparation and delivery of the resale
50 certificate and the resale package and for any update requested by the selling lot owner or the selling
51 owner's agent. The association may require prepayment in full before delivering the resale certificate
52 or package and may charge a fee for expedited issuance.

1 (e) A request for a resale package, resale certificate, or update of resale certificate information
2 must be made by the selling lot owner or the selling owner's agent. The request must be in writing
3 and must provide the name and address for delivery of the requested items.
4

5 (f) A request from a party to the resale transaction or from a party's real estate agent,
6 mortgage company, insurer, or title insurance company for specific information about the lot or the
7 planned community, including an assessment estoppel letter or an insurance certificate, is not
8 considered to be a request for a resale certificate or for a resale package.
9

10 (g) Not later than the 10th day after the date an association receives a written request for a
11 resale certificate or resale package, the association shall furnish the requested resale certificate or
12 resale package to the person specified in the request. A selling lot owner or the owner's agent is not
13 liable to the purchaser for omissions or erroneous information provided by the association in the
14 resale certificate.
15

16 (h) If an association does not furnish a requested resale certificate or resale package within
17 the time prescribed by Subsection (g), the owner or the owner's agent, or a title insurance company
18 or title insurance company's agent acting on behalf of the owner, may submit a second request for
19 the information.
20

21 (i) If the association does not furnish the requested resale certificate or resale package before
22 the seventh day after the date the association receives the second request, the lot owner, in lieu of
23 the certificate or package, may provide the purchaser with a sworn affidavit signed by the lot owner.
24

25 (j) An affidavit provided under Subsection (i) must state that the lot owner requested
26 information from the association as required by this section and that the association did not timely
27 provide a resale certificate or resale package. If a lot owner has furnished an affidavit to a
28 purchaser, the lot owner and the purchaser may agree in writing to waive the requirement to furnish
29 a resale certificate or resale package.
30

31 (k) The association is not liable to a selling lot owner for delay or failure to furnish a resale
32 certificate or resale package and an officer or agent of the association is not liable for a delay or
33 failure to furnish a certificate or package unless the officer or agent wilfully refuses to furnish the
34 resale certificate or resale package or is grossly negligent in not furnishing the resale certificate or
35 resale package. Failure to provide a resale certificate or resale package does not void a deed to a
36 purchaser.
37

38 (l) A resale certificate does not affect:

39 (1) an association's right to recover debts or claims that arise or become due after the
40 date the certificate is prepared; or
41

42 (2) an association's lien on a lot securing payment of future assessments.
43
44

45 (m) A selling lot owner, a selling owner's agent, and a purchaser's agent are not liable to a
46 purchaser for the failure or delay of the association to provide the resale certificate or resale package
47 in a timely manner.
48

49 (n) A purchaser, lender, or title insurer who relies on an executed resale certificate or on an
50 assessment estoppel letter issued by the association is not liable for any debt or claim that is not
51 disclosed in the certificate or estoppel letter.
52

SUBCHAPTER F. APPLICABILITY

Sec. 83.251. APPLICABILITY TO NEW PLANNED COMMUNITIES. (a) Except as provided by Section 83.254, this chapter applies to all planned communities in this state for which the declaration is recorded on or after January 1, 2006.

(b) Amendments to this chapter apply to all planned communities subject to this chapter, regardless of when the amendment is adopted.

Sec. 83.252. APPLICABILITY TO ESTABLISHED PLANNED COMMUNITIES. (a) Except as provided by Subsection (b) and Section 83.254, a planned community for which the declaration is recorded before January 1, 2006, is subject to this chapter with respect to events and circumstances occurring on or after January 1, 2006.

(b) Sections 83.051-83.059, 83.101, 83.104, 83.105, 83.205, 83.206, and 83.207(c) do not apply to a planned community for which the declaration was recorded before January 1, 2006.

(c) This chapter does not invalidate any existing provisions of the governing documents of a planned community for which the declaration was recorded before January 1, 2006.

(d) References to "a planned community subject to this chapter" include planned communities created before January 1, 2006, although those planned communities are not subject to the sections identified in Subsection (b).

(e) All applicable sections of this chapter shall be applied and construed to establish a clear, comprehensive, and uniform framework for the operation and management of planned communities in this state and to supplement the provisions of any governing document in existence on January 1, 2006. In the event of specific conflicts between the applicable provisions of this chapter and express requirements or restrictions in a governing document in existence on or before January 1, 2006, the requirements or restrictions in the governing document shall control, but only to the extent necessary to avoid invalidation of the specific requirement or restriction in the governing document.

Sec. 83.253. EXISTING PLANNED DEVELOPMENT BECOMES PLANNED COMMUNITY.

(a) This section applies to a planned development or subdivision containing one or more areas or improvements that are intended to benefit or to be maintained by the collective owners in the planned development or subdivision, but that is not subject to a recorded declaration creating a mandatory owners association and assessment obligation for owners of all lots in the planned development or subdivision. Areas or improvements subject to this section include subdivision entry features, screening walls, landscaping on street islands or public rights-of-way, pedestrian or vehicular gated entrances to the subdivision, drainage easements and water retention areas, and open spaces.

(b) A planned development or subdivision may become a planned community subject to this chapter by recording a declaration signed by at least three owners of lots in the planned development or subdivision, none of whom co-own the same lot, each certifying that:

(1) an owner of each lot in the planned development or subdivision was given notice of a special meeting to discuss approval of the declaration and the decision to become a planned community subject to this chapter;

1 (2) a copy of the proposed declaration was given to an owner of each lot with the notice
2 of special meeting;

3
4 (3) all owners were given an opportunity to vote on the decision, and a description of
5 the method or combination of methods by which owners communicated their approval;

6
7 (4) the decision was approved by owners of at least 75 percent of the lots in the planned
8 development or subdivision, voting in person or by proxy, as evidenced by a list of the lots and the
9 names of their owners who approved the decision; and

10
11 (5) owners of all lots have been notified in writing of the outcome of the vote.

12
13 (c) The recorded declaration becomes effective as to all lots in the planned development or
14 subdivision in the following stages:

15
16 (1) the lot of an owner who approved the declaration becomes subject to the declaration
17 on the 120th day after the date on which the declaration is recorded; and

18
19 (2) the lot of an owner who did not vote or who voted against the declaration becomes
20 subject to the declaration on the date the nonapproving owner ceases to own the lot.

21
22 (d) The owners who sign the declaration must give a copy of the executed declaration, with
23 evidence of recording, to an owner of every lot in the planned development or subdivision not later
24 than the 90th day after the date the declaration is recorded. The failure to provide or receive a copy
25 of the declaration does not void the declaration or the declaration's effectiveness as to any lot.

26
27 **Sec. 83.254. EXCLUSIONS FOR CERTAIN PLANNED COMMUNITIES.** Unless a
28 declaration specifically provides that this chapter is applicable, a planned community is not subject
29 to this chapter if:

30
31 (1) all the lots in the planned community are restricted to nonresidential use;

32
33 (2) the planned community is mixed use, containing residential and nonresidential lots,
34 unless the lots that may be used for residential purposes would comprise a planned community in
35 the absence of the nonresidential lots;

36
37 (3) the planned community contains 12 or fewer lots and is not subject to the
38 development rights of adding real property to the planned community or creating additional lots
39 within the planned community; or

40
41 (4) the planned community is a master planned community in which all of the residential
42 lots are in planned communities.

43
44 SECTION 4. Section 154.002, Civil Practice and Remedies Code, is amended to read as follows:

45
46 Sec. 154.002. Policy. It is the policy of this state to encourage the peaceable resolution of
47 disputes through voluntary settlement procedures, with special consideration given to:

48
49 (1) disputes involving the parent-child relationship, including the mediation of issues
50 involving conservatorship, possession, and support of children; [;]

51
52 (2) disputes between a property owners association and the association's members; [;]

1 and

2
3 (3) the early settlement of pending litigation [~~through voluntary settlement procedures~~].

4
5 SECTION 5. Subchapter A, Chapter 16, Civil Practice and Remedies Code, is amended by adding
6 Section 16.0048 to read as follows:

7
8 Sec. 16.0048. TEN-YEAR LIMITATIONS PERIOD. The owners association of a planned
9 community that is subject to Chapter 83, Property Code, must bring suit on a debt of an owner not
10 later than the 10th anniversary of the date the cause of action accrues.

11
12 SECTION 6. A provision of Chapter 83, Property Code, as added by this Act, that modifies,
13 limits, or supersedes the terms of a contract applies only to a contract entered into on or after the
14 effective date of this Act.

15
16 SECTION 7. This Act takes effect January 1, 2006.

APPENDIX C-2

Bill Search

- SB 620** **Author:** Jackson **Sponsor:** Davis, John
Last Action: 6/11/2001 E Effective on 9/1/01
Caption Version: Enrolled
Caption: Relating to extension of restrictions imposing regular assessments in certain residential real estate subdivisions.
- SB 1677** **Author:** Jackson **Sponsor:** Eiland
Last Action: 5/7/2001 H Comm. report sent to Local & Consent Calendar
Caption Version: House Committee Report
Caption: Relating to the applicability of provisions governing the powers of property owners associations concerning restrictive covenants in certain subdivisions.
- SB 1834** **Author:** Lindsay | et al. **Sponsor:** Solomons
Last Action: 5/20/2001 H Committee report sent to Calendars
Caption Version: House Committee Report
Caption: Relating to reimbursements to property owners following foreclosure sales by property owners' associations.
- SB 1835** **Author:** Lindsay | et al.
Last Action: 5/7/2001 S Committee report printed and distributed
Caption Version: Seante Committee Report
Caption: Relating to encumbrances that may be fixed on homestead property.
- SJR53** **Author:** Lindsay | et al.
Last Action: 5/7/2001 S Committee report printed and distributed
Caption Version: Seante Committee Report
Caption: Proposing a constitutional amendment permitting an encumbrance to be fixed on homestead property for an obligation to pay certain property owners' association fees without permitting the forced sale of the homestead.

Bill Search

- HB 1866** **Author:** Coleman | et al.
Last Action: 4/23/2003 H Left pending in committee
Caption Version: Introduced
Caption: Relating to the creation of restrictions, the extension of, addition to, or modification of existing restrictions, and the reinstatement of expired restrictions in certain residential subdivisions.
- HB 2200** **Author:** Solomons **Sponsor:** Fraser
Last Action: 6/20/2003 E Effective on 9/1/03
Caption Version: Enrolled
Caption: Relating to restrictions on apartment owners in a condominium regime relating to club membership.
- HB 2646** **Author:** Bailey | et al.
Last Action: 5/6/2003 H Reported favorably as substituted
Caption Version: Introduced
Caption: Relating to the operation of property owners' associations; providing an administrative penalty.
- HB 2789** **Author:** Edwards
Last Action: 4/22/2003 H Withdrawn from schedule
Caption Version: Introduced
Caption: Relating to a limitation on property owners' associations.
- HB 2790** **Author:** Edwards
Last Action: 4/22/2003 H Withdrawn from schedule
Caption Version: Introduced
Caption: Relating to property owners and property owners' associations.
- HB 3077** **Author:** West, George "Buddy"
Last Action: 3/28/2003 H Referred to Land and Resource Management
Caption Version: Introduced
Caption: Relating to the foreclosure of certain liens on property located in a residential subdivision.
- HB 3276** **Author:** Guillen
Last Action: 3/31/2003 H Referred to Business & Industry
Caption Version: Introduced
Caption: Relating to certain landscaping requirements in residential subdivisions.
- HB 3419** **Author:** Davis, John **Sponsor:** Lindsay
Last Action: 6/18/2003 E Effective immediately
Caption Version: Enrolled
Caption: Relating to procedural and technical corrections and clarification of the Property Tax Code, procedures for the seizure and sale of property, and distribution of ad valorem tax sale proceeds.

Bill Search

SB 779

Author: Armbrister

Last Action: 3/5/2003 S Referred to Natural Resources

Caption Version: Introduced

Caption: Relating to prohibiting the creation or enforcement of certain restrictive covenants that undermine water conservation.

SB 949

Author: Lindsay

Last Action: 5/20/2003 S Not again placed on intent calendar

Caption Version: Seante Committee Report

Caption: Relating to the operation of property owners' associations; providing penalties.

Bill Search

Legislature: 79(R)

Number of Bills: 25

HB 638

Author: Hegar

Sponsor: Armbrister

Last Action: 6/18/2005 E Effective on 9/1/05

Caption Version: Enrolled

Caption: Relating to the applicability of procedures governing restrictive covenants in certain residential subdivisions.

HB 873

Author: Dukes

Sponsor: Lucio

Last Action: 6/18/2005 E Effective immediately

Caption Version: Enrolled

Caption: Relating to regulation by a property owners' association of certain displays on property in a residential subdivision.

HB 927

Author: Dutton

Last Action: 3/1/2005 H Left pending in committee

Caption Version: Introduced

Caption: Relating to the foreclosure of certain liens on real property.

HB 1072

Author: Casteel

Last Action: 2/24/2005 H Left pending in committee

Caption Version: Introduced

Caption: Relating to the requirements for recording property owners' association management certificates in the county records.

HB 1240

Author: Hochberg

Last Action: 2/21/2005 H Referred to Urban Affairs

Caption Version: Introduced

Caption: Relating to maintenance of a common nuisance on the property of a condominium owners' association.

HB 1344

Author: Gattis

Last Action: 4/18/2005 H Committee report sent to Calendars

Caption Version: House Committee Report

Caption: Relating to regulation by a property owners' association of certain political signs.

HB 1446

Author: Orr

Last Action: 5/9/2005 H Committee report sent to Calendars

Caption Version: House Committee Report

Caption: Relating to priority of payment relating to property owners' association assessments.

HB 1631

Author: Hilderbran

Sponsor: Fraser

Last Action: 6/18/2005 E Effective on 9/1/05

Caption Version: Enrolled

Caption: Relating to amendment of restrictions governing certain residential subdivisions.

Bill Search

- SB 244** **Author:** Wentworth | et al. **Sponsor:** Orr
Last Action: 5/24/2005 H Point of order sustained
Caption Version: House Committee Report
Caption: Relating to priority of payment relating to property owners' association assessments.
- SB 362** **Author:** Carona
Last Action: 5/19/2005 H Left pending in committee
Caption Version: Engrossed
Caption: Relating to certain condominium owners' right to redeem real property following certain foreclosure sales.
- SB 534** **Author:** Lindsay | et al.
Last Action: 5/6/2005 S Not again placed on intent calendar
Caption Version: Seante Committee Report
Caption: Relating to the authority of local public officials in certain counties to enforce certain provisions relating to real property.
- SB 892** **Author:** Carona | et al.
Last Action: 5/19/2005 H Left pending in committee
Caption Version: Engrossed
Caption: Relating to the operation of property owners' associations; providing a civil penalty.
- SB 1018** **Author:** Staples **Sponsor:** Brown, Betty
Last Action: 6/18/2005 E Effective on 9/1/05
Caption Version: Enrolled
Caption: Relating to the extension or modification of residential restrictive covenants in certain counties.
- SB 1234** **Author:** Fraser
Last Action: 3/21/2005 S Referred to Intergovernmental Relations
Caption Version: Introduced
Caption: Relating to amendment of restrictions governing certain residential subdivisions.
- SB 1360** **Author:** Wentworth
Last Action: 3/21/2005 S Referred to Business & Commerce
Caption Version: Introduced
Caption: Relating to amendments to the Texas Timeshare Act.
- SB 1631** **Author:** Carona **Sponsor:** Hartnett
Last Action: 5/24/2005 H Committee report sent to Calendars
Caption Version: House Committee Report
Caption: Relating to certain lot owners' right to redemption following certain foreclosure sales.

Bill Search

SB 1886 **Author:** Lindsay
Last Action: 5/4/2005 S Left pending in committee
Caption Version: Introduced
Caption: Relating to foreclosure of certain property owners' association's liens.

APPENDIX C-3

By: Wentworth, et al.

S.B. No. 244

A BILL TO BE ENTITLED

AN ACT

relating to priority of payment relating to property owners' association assessments.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 209.009, Property Code, is amended to read as follows:

Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN CIRCUMSTANCES. (a) A property owners' association may not foreclose a property owners' association's assessment lien if the debt securing the lien consists solely of:

(1) fines assessed by the association; or

(2) attorney's fees incurred by the association solely associated with fines assessed by the association.

(b) Unless otherwise provided in writing by the property owner, a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

(1) any delinquent assessment;

(2) any current assessment;

(3) any fines assessed by the association; and

(4) any attorney's fees incurred by the association

solely associated with fines assessed by the association.

(c) Subsection (b) does not apply to a payment received by a property owners' association if:

(1) membership in the property owners' association is mandatory for owners or for a defined class of owners of private real property in a defined geographic area in a county with a population of 3.3 million or more or in a county adjacent to a county with a population of 3.3 million or more;

(2) the property owners' association has the power to make mandatory special assessments for capital improvements or mandatory regular assessments; and

(3) the amount of the mandatory special or regular assessments is or has ever been based in whole or in part on the value at which the state or a local governmental body assesses the property for purposes of ad valorem taxation under Section 20, Article VIII, Texas Constitution.

SECTION 2. This Act applies to a payment received by a property owners' association on or after the effective date of this Act. A payment received before the effective date of this Act is governed by the law in effect when the payment was received, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2005.

APPENDIX D

2005S0552-1 03/10/05

By: Lucio

S.B. No. 1595

A BILL TO BE ENTITLED

AN ACT

relating to private activity bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (d), Section 1372.006, Government Code, is amended to read as follows:

(d) Of each fee required by Subsection (b) or (c):

(1) one-third must be submitted not later than the 45th ~~[35th]~~ day after the reservation date for the issue; and

(2) the remainder must be submitted at the time of closing.

SECTION 2. Section 1372.022, Government Code, is amended to read as follows:

Sec. 1372.022. AVAILABILITY OF STATE CEILING TO ISSUERS.

(a) If the state ceiling is computed on the basis of \$75 per capita or a greater amount, before July 1 ~~[August 15]~~ of each year:

(1) 28.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage bonds;

(2) 8 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;

(3) 2.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue

bonds and enterprise zone facility bonds;

(4) 22.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental project bonds;

(5) 10.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53.47, Education Code, that are nonprofit corporations able to issue a qualified scholarship funding bond as defined by Section 150(d)(2), Internal Revenue Code (26 U.S.C. Section 150(d)(2)); and

(6) 29.5 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation.

(b) On and after July 1 [~~August 15~~] but before July 15 [~~September 1~~], that portion of the state ceiling available for reservations becomes available for all applications for reservations in the order determined by the board by lot, subject to Section 1372.0321. On and after July 15 [~~September 1~~], that portion of the state ceiling available for reservations becomes available to any issuer for any bonds that require an allocation, subject to the provisions of this subchapter.

SECTION 3. Section 1372.0221, Government Code, is amended to read as follows:

Sec. 1372.0221. DEDICATION OF PORTION OF STATE CEILING FOR PROFESSIONAL EDUCATORS HOME LOAN PROGRAM. Until June 25 [~~August 1~~], out of that portion of the state ceiling that is available

S.B. No. 1595

exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022, \$25 million shall be allotted each year and made available exclusively to the Texas State Affordable Housing Corporation for the purpose of issuing qualified mortgage bonds in connection with the professional educators home loan program established under Section 2306.562.

SECTION 4. Section 1372.0222, Government Code, is amended to read as follows:

Sec. 1372.0222. DEDICATION OF PORTION OF STATE CEILING FOR FIRE FIGHTER AND POLICE OFFICER HOME LOAN PROGRAM. Until June 25 [~~August 1~~], out of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022, \$25 million shall be allotted each year and made available exclusively to the Texas State Affordable Housing Corporation for the purpose of issuing qualified mortgage bonds in connection with the fire fighter and police officer home loan program established under Section 2306.563.

SECTION 5. Subsections (a) and (b), Section 1372.023, Government Code, are amended to read as follows:

(a) Until July 1 [~~August 15~~], of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds, one-third is available exclusively to the Texas Department of Housing and Community Affairs for the purpose of issuing qualified mortgage bonds.

(b) Until July 1 [~~August 15~~], of that portion of the state

S.B. No. 1595

ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds, one-fifth is available exclusively to the Texas Department of Housing and Community Affairs in the manner described by Section 1372.0231.

SECTION 6. Subsections (a), (b), and (e), Section 1372.0231, Government Code, as amended by Chapter 1329, Acts of the 78th Legislature, Regular Session, 2003, are amended to read as follows:

(a) Until July 1 [~~August 15~~], of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified residential rental project bonds:

(1) 20 percent is available exclusively to the Texas Department of Housing and Community Affairs in the manner described by Subsection (b);

(2) 70 percent is available exclusively to housing finance corporations in the manner described by Subsections (c)-(f); and

(3) 10 percent is available exclusively to the Texas State Affordable Housing Corporation in the manner described by Subsection (b-1).

(b) With respect to the amount of the state ceiling set aside under Subsection (a)(1), after the board's review and approval, the board shall grant reservations at the direction of the Texas Department of Housing and Community Affairs in accordance with Section 1372.0321 and criteria established by rules of that department. Subsequent allocations the board makes on behalf of that department are subject to review and approval by the board in

accordance with Section 1231.041. Subject to Sections 1372.0321(a) and (b), the board shall grant reservations:

(1) in a manner that ensures that:

(A) the set-aside amount is used for proposed projects that are located throughout the state; and

(B) not more than 50 percent of the set-aside amount is used for proposed projects that are located in qualified census tracts as defined by Section 143(j), Internal Revenue Code of 1986; and

(2) in the order determined by lot, but only for those reservations granted between July 1 [~~August 15~~] and November 30 of the program year.

(e) Until March 1 [~~May 15~~] of each year, for each of the uniform state service regions containing Austin, Dallas, or Houston, the board shall reserve \$15 million of the state ceiling set aside for the region under Subsection (d) for the areas in the region that are located outside of a metropolitan statistical area, or for any rehabilitation transactions that are located inside or outside of a metropolitan statistical area.

SECTION 7. Subsection (c), Section 1372.028, Government Code, is amended to read as follows:

(c) The application must:

(1) be on a form prescribed by the board;

(2) be signed by a member or officer of the issuer; and

(3) state:

(A) the maximum amount of the bonds in the issue

that require an allocation under Section 146, Internal Revenue Code (26 U.S.C. Section 146);

(B) the project or, for qualified residential rental project issues, projects, or, with respect to an eligible facility, a functional description of the project to be financed by the proceeds, including the identification of the user of the proceeds or project;

(C) whether the bonds are qualified bonds;

(D) if the bonds are qualified bonds:

(i) the subparagraph of Section 141(e)(1), Internal Revenue Code (26 U.S.C. Section 141(e)(1)), that applies; and

(ii) if Section 141(e)(1)(A) of that code (26 U.S.C. Section 141(e)(1)(A)) applies, the paragraph of Section 142(a) of that code (26 U.S.C. Section 142(a)) that applies;

(E) if the bonds are not qualified bonds:

(i) that Section 141(b)(5), Internal Revenue Code (26 U.S.C. Section 141(b)(5)), applies; or

(ii) for a transition rule project, the paragraph of the Tax Reform Act of 1986 that applies;

(F) that bonds are not being issued for the same stated project for which the issuer has received sufficient carryforward during a previous year or for which there exists unexpended proceeds from, including transferred proceeds representing unexpended proceeds from, one or more prior issues of bonds issued by the same issuer or based on the issuer's

population; and

(G) other information that the board may require.

SECTION 8. Section 1372.031, Government Code, is amended to read as follows:

Sec. 1372.031. PRIORITIES FOR RESERVATIONS AMONG CERTAIN ISSUERS. Subject to Sections 1372.0321, ~~and~~ 1372.0231, and 1372.035, if, on or before October 20, more than one issuer in a category described by Section 1372.022(a)(2), (3), (4), or (6) applies for a reservation of the state ceiling for the next program year, the board shall grant reservations in that category in the order determined by the board by lot.

SECTION 9. Subsection (a-1), Section 1372.0321, Government Code, as amended by Chapter 330, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a-1) In granting reservations to issuers of qualified residential rental project issues, the board shall give second priority to projects in which at least 80 ~~[100]~~ percent of the residential units in the project are:

(1) under the restriction that the maximum allowable rents are an amount equal to 30 percent of 60 percent of the area median family income minus an allowance for utility costs authorized under the federal low-income housing tax credit program; and

(2) reserved for families and individuals earning not more than 60 percent of the area median income.

SECTION 10. Section 1372.035, Government Code, is amended by

adding Subsection (c) to read as follows:

(c) For an issuer that receives a carryforward allocation with respect to an application, upon the earlier of (1) receipt of notice from the issuer that the application is being withdrawn, or (2) the expiration of the period specified in Section 1372.042(a-1) for state ceiling designated as carryforward with respect to an application under Section 1372.061(b), the board shall immediately grant a reservation to that issuer's next available application.

SECTION 11. Subsections (a) and (b), Section 1372.036, Government Code, are amended to read as follows:

(a) If, before June 1, any portion of the state ceiling in a category described by Section 1372.022(a) from which issuers were granted reservations becomes available in that category:

(1) those amounts of the state ceiling shall be aggregated; and

(2) the board shall grant reservations from that category on and after May 1 [~~June 1~~].

(b) Beginning May 1 [~~June 1~~], partial reservations may be offered once to each applicant in each category described by Section 1372.022(a) until an applicant in the category accepts the partial reservation or until additional volume is returned in an amount sufficient to grant a full reservation.

SECTION 12. Subsections (a) and (d), Section 1372.039, Government Code, are amended to read as follows:

(a) Not later than the 45th [~~35th~~] day after an issuer's reservation date, the issuer shall submit to the board:

(1) a certificate signed by an authorized representative of the issuer that certifies the principal amount of the bonds to be issued; and

(2) a list of finance team members and their addresses and telephone numbers.

(d) If an issuer does not submit the documents during the period provided by Subsection (a), the issuer may submit the documents not later than the third day after the end of the 45-day [~~35-day~~] period together with a statement and evidence regarding extenuating circumstances that prevented a timely filing. The board shall review the statement and the evidence and may, based on the statement and evidence, permit the late filing.

SECTION 13. Section 1372.070, Government Code, is amended to read as follows:

Sec. 1372.070. FORM AND CONTENTS OF APPLICATION FOR CARRYFORWARD APPLICATION. An application for a carryforward designation must:

(1) be on a form prescribed by the board;

(2) be signed by a member or officer of the issuer [~~and~~

~~by:~~

~~[(A) the governor, if the issuer was created to act on behalf of this state; or~~

~~[(B) the presiding officer or another authorized official of each political subdivision, if the issuer was created to act on behalf of one or more political subdivisions of this state];~~

- (3) state the amount of carryforward sought;
- (4) describe the project;
- (5) state which priority classification is applicable to the applicant;
- (6) include evidence satisfactory to the board that that priority classification is correct; and
- (7) contain any other information that the board by rule requires.

SECTION 14. The change in law made by this Act applies only to an application submitted to a housing finance corporation on or after the effective date of this Act. An application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2005.

APPENDIX E

SENATE
NOTICE OF PUBLIC HEARING

COMMITTEE: Intergovernmental Relations

TIME & DATE: 1:00PM, Wednesday, September 13, 2006

PLACE: E1.028

CHAIR: Senator Royce West

The Senate Committee on Intergovernmental Relations will meet on Wednesday, September 13, 2006, at 1 p.m. in E1.028. The Committee will consider the following interim committee charges:

1.) Study and make recommendations regarding the regulatory authority of counties in relation to development in unincorporated areas, including public safety and public health regulations, and the authority of counties to prevent new colonias development without sufficient water, wastewater, and other infrastructure.

3.) Study and make recommendations regarding the relationship between cities and special utility districts, including the formation of special utility districts in the extraterritorial jurisdiction of cities, and the ability of those districts to meet the future service needs of residents; the number of special utility districts currently existing and their effect on the overall property tax burden; as well as the significant growth/creation of special utility districts and their effect on the provision of services to residents.

AGENDA
SENATE INTERGOVERNMENTAL RELATIONS COMMITTEE
SENATOR ROYCE WEST, CHAIRMAN

WEDNESDAY, SEPTEMBER 13, 2006, 1:00 P.M.
CAPITOL EXTENSION E1.028

INTERIM CHARGES I AND III

I. CALL TO ORDER/ROLL CALL

II. ADOPTION OF COMMITTEE RULES:

III. Testimony on Interim Charge 1.

- Charlie Stone, Office of Rural Community Affairs
- Kevin Ward, Executive Administrator, Texas Water Development Board
- Jim Allison, County Judges and Commissioners Association of Texas
- Donna Chatham, Association of Rural Communities in Texas
- Michael Moore, Texas Association of Builders
- Donald Lee, Texas Conference of Urban Counties

Resource Witnesses:

- Homero Cabello, Office of Colonia Initiative, Texas Department of Housing and Community Affairs
- Edna Butts, Office of Attorney General

IV. Testimony on Interim Charge 3.

- John Cabrales, Public Information Officer, City of Denton
- Jim Sheppard, City Council member, City of Richardson

- Laura Huffman, City of Austin
- Andy Icken, Deputy Director of Public Works, City of Houston
- Ted Nelson, Texas Association of Builders
- Joe Allen, Association of Water Board Directors
- Jodi Richardson (Akin, Gump, & Strauss)

V. PUBLIC TESTIMONY

VI. RECESS

MINUTES

SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

Wednesday, September 13, 2006

1:00 p.m.

Capitol Extension, Room E1.028

Pursuant to a notice posted in accordance with Senate Rule 11.18, a public hearing of the Senate Committee on Intergovernmental Relations was held on Wednesday, September 13, 2006, in the Capitol Extension, Room E1.028, at Austin, Texas.

MEMBERS PRESENT:

ABSENT:

Senator Royce West, Chair
Senator Jon Lindsay, Vice Chair
Gallegos, Jr.

Wentworth

MEMBERS

Senator Bob Deuell
Senator Mario

Senator Jeff

The chair called the meeting to order at 1:04 p.m. The following business was transacted:

Chairman West made opening remarks and announced that the purpose of the hearing was to consider invited and public testimony regarding interim committee charges 1 and 3 which were issued to the Senate Committee on Intergovernmental Relations by Lt. Governor David Dewhurst.

The Chair recognized Vice Chairman Lindsay to make opening remarks. The Chair recognized Joe Morris, Chief of Staff to Senator Wentworth, who made a statement to the Committee on behalf of Senator Wentworth.

The Chair laid out interim committee charge 1, study and make recommendations regarding the regulatory authority of counties in relation to development in unincorporated areas, including public safety and public health regulations, and the authority of counties to prevent new colonias development without sufficient water, wastewater, and other infrastructure.

Persons providing invited testimony on interim committee charge 1 are shown on the attached list.

The Chair laid out interim committee charge 2, study and make recommendations regarding the relationship between cities and special utility districts, including the formation of special utility districts in the extraterritorial jurisdiction of cities, and the ability of those districts to meet the future service needs of residents; the number of special utility districts currently existing and their effect of the overall property tax burden; as well as the significant growth/creation of special utility districts and their effect on the provision of services to residents.

Persons providing invited testimony of interim committee charge 3 are shown on the attached list.

Senator Lindsay assumed presiding duties at 4:25 p.m.

Persons providing public testimony on interim committee charges 1 and 3 are shown on the attached list.

With no other business to come before the committee, Senator Lindsay recessed the Senate Committee on Intergovernmental Relations at 4:47 p.m., subject to the call of the chair.

Senator Royce West, Chair

Scott Caffey, Senate Committee Coordinator

WITNESS LIST

Intergovernmental Relations Committee

September 13, 2006 - 1:00P

Interim Committee Charge 1

ON: Allison, Jim (County Judges and Commissioners
Association of Texas), Austin, TX
Chatham, Donna Executive Director (Association of
Rural Communities in Texas), Austin, TX
Lee, Donald Executive Director (Texas Conference of
Urban Counties), Austin, TX
Moore, Michael D. (Texas Association of Builders),
Austin, TX
Morales, Erich Assistant County Attorney (El Paso
County), El Paso, TX
Steinberg, Jonathan (Texas Water Development Board),
Austin, TX
Stone, Charles (Office of Rural Affairs), Austin, TX
Ward, J. Kevin Executive Administrator (Texas Water
Development Board), Austin, TX

Interim Committee Charge 3

ON: Allen, Joe B. (Association of Water Board
Directors), Houston, TX
Cabrales, John Public Information Officer (City of
Denton, Texas), Denton, TX

Huffman, Laura J. Assistant City Manager (City of
Austin), Austin, TX

Icken, Andrew (City of Houston), Kingwood, TX

Nelson, Ted (Newland Communities), Houston, TX

Shepherd, Jim (City of Parker), Dallas, TX

Interim Committee Charges 1 and 3

ON: Miertschin, Gene Commissioner (Kendall County),
Boerne, TX

Interim Committee Charge 1

Registering, but not testifying:

On: Cabello, Jr., Homero Director, Office of Colonia
Initiatives (Texas Department of Housing and
Community Affairs), Austin, TX
Sugg, Paul (Texas Association of Counties), Austin,
TX

Interim Committee Charge 3

On: Gold, Mary C. Supervisor (Texas Comptroller of
Public Accounts), Austin, TX
Hefner, Mary Anne (Association of Water Board
Directors), Kingsland, TX
Pratt, Mary Helen Area Manager (Texas Comptroller of
Public Accounts), Austin, TX

Interim Committee Charge 1

Providing written testimony:

On: Henneberger, John (Texas Low Income Housing
Information Service), Austin, TX

Interim Committee Charge 3

On: Howe, Donna (Urban Area Suburban Exchange), Austin,
TX

SENATE

NOTICE OF PUBLIC HEARING

COMMITTEE: Intergovernmental Relations

TIME & DATE: 8:30 AM, Monday, October 02, 2006

PLACE: E1.028

CHAIR: Senator Royce West

The Senate Committee on Intergovernmental Relations will meet on Monday, October 2, 2006, at 8:30 a.m. in E1.028 to consider the following interim committee charges:

- 2.) Study and make recommendations relating to the use of funds collected from red light camera citations.

- 5.) Examine and make recommendations relating to the appropriateness and advisability of adopting the "Texas Uniform Planned Community Act," as published by the State Bar of Texas Subcommittee on Property Owners Associations, as the enabling statute to establish a comprehensive and uniform framework for the creation and operation of residential planned communities.

AGENDA
SENATE INTERGOVERNMENTAL RELATIONS COMMITTEE
SENATOR ROYCE WEST, CHAIRMAN

MONDAY , OCTOBER 2, 2006, 8:30 A.M.
CAPITOL EXTENSION E1.028

INTERIM CHARGES 2 AND 5

I. Call to Order

II. Roll Call

III. Committee Business

A. Interim Charge #2 *Study and make recommendations relating to the use of funds collected from red light camera citations.*

Invited Testimony

Panel 1

- **Carlos Lopez**, Director of Traffic Operations Division, Texas Department of Transportation.
- **Rod Dietz**, Revenue Accounting Division and **Kevin Koller**, Audit Division
Comptroller of Public Accounts
- **Carl Reynolds**, Office of Court Administration

Panel 2

- **Mayor David Green**, City of Duncanville,
- **Chief Greg Rushin**, Plano Police Department,
- **Assistant Chief Steve Dye**, Garland Police Department,
- **Chief Larry Zacharias**, Richardson Police Department

Resource Witness:

- **Todd Renshaw**, City of Frisco Chief of Police

B. **Interim Charge #5** - *Examine and make recommendations relating to the appropriateness and advisability of adopting the "Texas Uniform Planned Community Act," as published by the State Bar of Texas Subcommittee on Property Owners Associations, as the enabling statute to establish a comprehensive and uniform framework for the creation and operation of residential planned communities.*

Invited Testimony

- **Sharon Reuler** - College of Real Estate Attorneys
- **Connie Heyer**, Community Associations Institute
- **Susan Wright**, Chair of the Texas Association of Builders Property Owners' Association Issues Task Force,
- **Tom Morgan**, Vice President of Legal Affairs, Texas Association of Realtors

Resource

- **Barbara Gatlin**, President Texas Homeowners for HOA Reform, Inc

V. PUBLIC TESTIMONY

VI. ADJOURN/RECESS

MINUTES

SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

Monday, October 2, 2006

8:30 a.m.

Capitol Extension, Room E1.028

Pursuant to a notice posted in accordance with Senate Rule 11.18, a public hearing of the Senate Committee on Intergovernmental Relations was held on Monday, October 2, 2006, in the Capitol Extension, Room E1.028, at Austin, Texas.

MEMBERS

PRESENT:

Senator Royce West,
Chair
Senator Bob Deuell
Senator Jeff Wentworth

MEMBERS ABSENT:

Senator Jon Lindsay,
Vice Chair
Senator Mario Gallegos,
Jr.

The Chair called the meeting to order at 8:35 a.m. There being a quorum present, the following business was transacted:

The Chair made opening remarks, introduced new committee staff, Tiffany White and Graham Keever and recognized Senator Deuell to introduce his staff representative.

The Chair laid out interim committee charge #2, relating to the use of funds collected from red light camera citations.

The Chair called the following persons to provide invited testimony on interim committee charge #2. See attached witness list.

The Chair called the following persons to provide invited testimony on interim committee charge #5 relating to the appropriateness and advisability of adopting the "Texas Uniform Planned Community Act," as published by the State Bar of Texas Subcommittee on Property Owners Associations, as the enabling statute to establish a comprehensive and uniform framework for the creation and operation of residential planned communities. See attached witness list.

The chair called the following persons to provide public testimony. See attached witness list.

There being no further business, at 10:40 a.m. Senator Wentworth moved that the Committee stand recessed subject to the call of the chair. Without objection, it was so ordered.

Senator Royce West, Chair

Tiffany White, Clerk

WITNESS LIST

Intergovernmental Relations Committee

October 2, 2006 - 08:30 AM

Interim Charge #2

ON:

Dietz, Rod Program Specialist (Office of State Comptroller), Austin, TX

Dye, Steve Assistant Chief of Police (City of Garland), Garland, TX

Green, David Mayor (City of Duncanville), Duncanville, TX

Koller, Kevin Supervisor Technical Support (Office of State Comptroller), Austin, TX

Lopez, Carlos Director of Traffic Operations (Texas Department of Transportation), Austin, TX

Renshaw, Todd Chief of Police (Frisco Police Department), Frisco, TX

Reynolds, Carl Director (Office of Court Administration), Austin, TX

Rushin, Greg Plano Police Chief (Plano Police Department), Plano, TX

Zacharias, Larry Chief (City of Richardson), Richardson, TX

Interim Charge #5

FOR:

Reuler, Sharon Ms. (Texas College of Real Estate Attorneys), Dallas, TX

AGAINST:

Adolph, Irene "Beanie" Ms. (Texas Homeowners for HOA Reform, Inc.), Houston, TX

Khurshid, Arshia Ms. (Self), San Antonio, TX

Lent, Robin Ms. (Self), Spring, TX

Toppin, Roberta Ms. (Clear Lake Neighbors in Action), Houston, TX

ON:

Gatlin, Barbara President (Texas Homeowners for HOA Reform, Inc), Katy, TX

Heyer, Connie Ms. (Texas Community Associations Institute), Austin, TX

Morgan, Tom Vice President of Legal Affairs (Texas Association of REALTORS), Austin, TX

Wright, Susan Ms. (Texas Association of Builders), Austin, TX

Interim Charge 5

AGAINST:

Gates, Gwen Ms (Clear Lake Neighbors in Action), Houston, TX

SENATE

NOTICE OF PUBLIC HEARING

COMMITTEE: Intergovernmental Relations

TIME & DATE: 1:00 PM, Monday, October 16, 2006

PLACE: E1.028

CHAIR: Senator Royce West

The Committee will meet to consider the following interim committee charges:

- 4.) Study and make recommendations relating to counties' ability to apply for and receive state and federal grants, focus on assessing the impact and use of grant funds, on streamlining the process and upon the impact and options available for counties without incorporated cities and towns.
- 6.) Study the implementation and impact of legislation passed by the 79th Legislature to increase the economic impact of the Texas Wine Industry on the state's economy and make recommendations, as appropriate.
- 7.) Study the status of floodplain mapping in Texas communities and the scope of local governments' floodplain development management authority and make recommendations, as necessary, to enable communities to provide accurate floodplain data and management plans that will facilitate more favorable insurance rates and better protect the lives and property of Texas residents in the event of a natural disaster.
- 8.) Study the home ownership rate for low-income Texans. Make recommendations for increasing home ownership. Analyze options for enhancing Low Income Housing Tax Credits and include costs and benefits to the state.

AGENDA
SENATE INTERGOVERNMENTAL RELATIONS COMMITTEE
SENATOR ROYCE WEST, CHAIRMAN
MONDAY, OCTOBER 16, 2006, 1:00 P.M.
CAPITOL EXTENSION E1.028
INTERIM CHARGES 4, 6, 7 AND 8

I. Call to Order

II. Roll Call

III. Committee Business

A. **Interim Charge #7** - *Study the status of floodplain mapping in Texas communities and the scope of local governments' floodplain development management authority and make recommendations, as necessary, to enable communities to provide accurate floodplain data and management plans that will facilitate more favorable insurance rates and better protect the lives and property of Texas residents in the event of a natural disaster.*

Invited Testimony

- **Bruce Barr**, CFM (Certified Floodplain Manager), County GIS Analyst, County Information Project, Texas Association of Counties
- **Wes Birdwell**, Chair, Legislative Committee, Texas Floodplain Management Association;
- **Ross Richardson**, Branch Chief, Mitigation Division, Region VI, Federal Emergency Management Agency;
- **Greg Rothe**, San Antonio River Authority; and
- **Jack Tidwell**, North Central Texas Council of Government.

Submitting Written Testimony

- **James Oakley**, Burnet County Commissioner, Chair, Texas Colorado River Floodplain Coalition
- Patrick Brzozowski**, General Manager, Lavaca-Navidad River Authority.

Resource Witnesses

- **Mike Cowan**, Director, Water Supply Division, Texas Commission on Environmental Quality
- **Carolyn Brittain and Bill Mullican**, Texas Water Development Board.

B. Interim Charge #4 - *Study and make recommendations relating to counties' ability to apply for and receive state and federal grants. Focus on assessing the impact and use of grant funds, on streamlining the process, and upon the impact and options available for counties without incorporated cities and towns.*

Invited Testimony

- **Eric Beverly**, Government Relations Specialist, Office of Rural Community Affairs;
- **Denise Francis**, State Single Point of Contact, Office of the Governor, Division of Budget, Planning, and Policy; and
- **Dustin Lanier**, Director of Strategic Initiatives, Texas Department of Information Resources.

C. Interim Charge #6 - *Study the implementation and impact of legislation passed by the 79th Legislature to increase the economic impact of the Texas Wine Industry on the state's economy and make recommendations, as appropriate.*

Invited Testimony

- **John Helleman**, Chief Revenue Estimator, Texas Comptroller of Public Accounts, and **Dean Ferguson**, Revenue Estimator, Texas Comptroller of Public Accounts;
- **Dacota Julson**, Texas Wine and Grape Growers' Association.; and
- **Lisa Woods**, Deputy Commissioner of Agriculture, Texas Department of Agriculture.

D. Interim Charge #8 - *Study the home ownership rate for low-income Texans. Make recommendations for increasing home ownership. Analyze options for enhancing Low Income Housing Tax Credits and include costs and benefits to the state.*

Invited Testimony

- **David Long**, President Texas State Affordable Housing Corporation;
- **Michael Lyttle**, Director of Policy and Public Affairs, Texas Department of Housing and Community Affairs; and
- **Karen Paup**, Co-director, Texas Low-Income Housing Information Service.

IV. PUBLIC TESTIMONY

V. ADJOURN/RECESS

MINUTES

SENATE COMMITTEE ON INTERGOVERNMENTAL RELATIONS

Monday, October 16, 2006

1:00 p.m.

Capitol Extension, Room E1.028

Pursuant to a notice posted in accordance with Senate Rule 11.18, a public hearing of the Senate Committee on Intergovernmental Relations was held on Monday, October 16, 2006, in the Capitol Extension, Room E1.028, at Austin, Texas.

MEMBERS

PRESENT:

Senator Royce West
Senator Mario Gallegos,
Jr.
Senator Jeff Wentworth

MEMBERS ABSENT:

Senator Jon Lindsay
Senator Bob Deuell

The chair called the meeting to order at 1:10 p.m. There being a quorum present, the following business was transacted:

The Chair made opening remarks and announced that the purpose of the hearing was to consider invited and public testimony regarding interim charges 4,6,7 and 8, which were issued to the Senate Committee on Intergovernmental Relations by Lt. Governor David Dewhurst.

The Chair laid out interim committee charge 7, study the status of floodplain mapping in Texas communities and the scope of local governments' floodplain development management authority and make recommendations, as necessary, to enable communities to provide accurate floodplain data and management plans that will facilitate more favorable insurance rates and better protect the lives and property of Texas residents in the event of a natural disaster.

The Chair called the following persons to provide invited testimony on interim committee charge 7. See attached witness list.

The Chair laid out interim committee charge 4, study and make recommendations relating to counties' ability to apply for and receive state and federal grants. Focus on assessing the impact and use of grant funds, on streamlining the process, and upon the impact and options available for counties without incorporated cities and towns.

The Chair called the following persons to provide invited testimony on interim committee charge 4. See attached witness list.

The Chair laid out interim committee charge 6, study the implementation and impact of legislation passed by the 79th Legislature to increase the economic impact of the Texas Wine Industry on the state's economy and make recommendations, as appropriate.

The Chair called the following persons to provide invited testimony on interim committee charge 6. See attached witness list.

The Chair laid out interim committee charge 8, study the home ownership rate for low-income Texans. Make recommendations for increasing home ownership. Analyze options for enhancing Low Income Housing Tax Credits and include costs and benefits to the state.

The Chair called the following persons to provide invited testimony on interim committee charge 8. See attached witness list.

With no other business to come before the committee, at 4:05 p.m., Senator Wentworth moved that the committee stand recessed subject to the call of the Chair.

Senator Royce West, Chair

Tiffany White, Committee Clerk

WITNESS LIST

Intergovernmental Relations Committee
October 16, 2006 - 01:00 PM

Interim Charge 4

ON:

Beverly, Eric Governmental Relations Specialist (Office of Rural Community Affairs), Austin, TX

Francis, Denise (Office of the Governor), Austin, TX

Lanier, Dustin (Department of Information Resources), Austin, TX

Interim Charge 6

FOR:

Julson, Dacota Executive Director (Texas Wine and Grape Growers Association), Grapevine, TX

ON:

Ferguson, Dean (Comptroller of Public Accounts), Austin, TX

Woods, Lisa Deputy Commissioner (Texas Department of Agriculture), Austin, TX

Registering, but not testifying:

For:

Dotson, Alphonse President (Texas Wine and Grape Growers Association), Voca, TX

Interim Charge 7

FOR:

Barr, Bruce Certified Floodplain Manager (Texas Association of Counties), Austin, TX

Birdwell, Wes (Texas Floodplain Management Association), Austin, TX

Rothe, Greg General Manager (San Antonio River Authority), San Antonio, TX

ON:

Cowan, Mike Director (Texas Commission on Environmental Quality), Austin, TX

Mullican, William (Texas Water Development Board), Austin, TX

Richardson, Ross Branch Chief (Federal Emergency Management Agency), Denton, TX

Tidwell, John (North Central Texas Council of Governments), Arlington, TX

Providing written testimony:

On:

Oakley, James Commissioner (Texas Colorado River Floodplain Coalition), Burnet, TX

Interim Charge 8

ON:

Long, David President (Texas State Affordable Housing Corporation), Austin, TX

Lyttle, Michael Director (Department of Housing and Community Affairs), Austin, TX

Paup, Karen Co-Director (Texas Low Income Housing Information), Austin, TX

Providing written testimony:

On:

Gaster, Talia (Capital Consultants), Austin, TX

Hrncir, John (City of Austin), Austin, TX

