

BILL ANALYSIS

C.S.H.B. 3461
By: Baxter
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Chapter 212 of the Local Government Code establishes clear guidelines for a municipality to follow with respect to adopting a moratorium on property development. The guidelines include posting notice of a public hearing, hosting two separate public hearings, and making available written justification for the proposed moratorium.

Under current law, these procedural steps only have to be enacted for a moratorium imposed on residential development and no clear guidelines exist for such moratoriums on commercial development. This loophole denies commercial developers due process and the opportunity to have their concerns heard when a municipality moratorium places a halt of commercial development.

The purpose of C.S.H.B. 3461 is to require municipalities to follow similar procedural steps in regards to imposing moratoriums on commercial property as they do in regards to residential property.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. *Amends Section 212.131, Local Government Code, by amending Subdivision (3) and adding Subdivision (4), as follows:*

Defines "Property development" to include any reconstruction, alteration or improvements of existing residential or commercial buildings, or the subdivision or replatting of a subdivision of residential or commercial property.

Defines "Commercial property".

SECTION 2. *Amends Subchapter E, Chapter 212, Local Government Code, as follows:*

Makes conforming changes.

Authorizes a municipality to impose a moratorium on commercial property for shortage of essential public facilities or for certain circumstances. "Certain circumstances" allows a municipality to impose a commercial moratorium in the event they feel the need to rewrite their existing commercial development ordinances or regulations. Under "certain circumstances", a municipality must provide written findings demonstrating the need for new city ordinances, the geographical boundary of the moratorium, specific type of commercial property affected, and what the new ordinance or regulation expects to accomplish.

States that a "certain circumstances" moratorium expires after the 90th day of effect and can be extended 1 time for an additional 90 days by holding a public hearing and adopting written findings that identify the need for the

extension. States that an additional "certain circumstances" moratorium cannot be placed on a commercial development project until at least two years after the previous "certain circumstances" moratorium on that project has expired.

Removes claiming a vested right under Chapter 245 as a reason to request a waiver from a moratorium and instead is classified as a circumstance not affected by a moratorium. Prohibits a municipality from delaying or stopping a zoning application filed before the effective date of a moratorium.

SECTION 3. Act Prospective.

SECTION 4. Effective Date.

EFFECTIVE DATE

September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1. The Substitute makes additions to the definitions of "Property development" and "Commercial property".

SECTION 2. The Substitute makes the following changes:

Authorizes a municipality to impose a moratorium on commercial property for shortage of essential public facilities or for certain circumstances. "Certain circumstances" allows a municipality to impose a commercial moratorium in the event they feel the need to rewrite their existing commercial development ordinances or regulations. Under "certain circumstances", a municipality must provide written findings demonstrating the need for new city ordinances, the geographical boundary of the moratorium, specific type of commercial property affected, and what the new ordinance or regulation expects to accomplish.

States that a "certain circumstances" moratorium expires after the 90th day of effect and can be extended 1 time for an additional 90 days by holding a public hearing and adopting written findings that identify the need for the extension. States that an additional "certain circumstances" moratorium cannot be placed on a commercial development project until at least two years after the previous "certain circumstances" moratorium on that project has expired.

Removes claiming a vested right under Chapter 245 as a reason to request a waiver from a moratorium and instead is classified as a circumstance not affected by a moratorium. Prohibits a municipality from delaying or stopping a zoning application filed before the effective date of a moratorium.