

1-1 By: Oliverson, Goldman, Thierry H.B. No. 3167  
 1-2 (Senate Sponsor - Hughes)  
 1-3 (In the Senate - Received from the House May 3, 2019;  
 1-4 May 6, 2019, read first time and referred to Committee on Business  
 1-5 & Commerce; May 14, 2019, reported favorably by the following vote:  
 1-6 Yeas 8, Nays 0; May 14, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			

1-18 A BILL TO BE ENTITLED  
 1-19 AN ACT

1-20 relating to county and municipal approval procedure for land  
 1-21 development applications.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 212.001, Local Government Code, is  
 1-24 amended by amending Subdivision (2) and adding Subdivision (3) to  
 1-25 read as follows:

1-26 (2) "Plan" means a subdivision development plan,  
 1-27 including a subdivision plan, subdivision construction plan, site  
 1-28 plan, land development application, and site development plan.

1-29 (3) "Plat" includes a preliminary plat, general plan,  
 1-30 final plat, and replat.

1-31 SECTION 2. Subchapter A, Chapter 212, Local Government  
 1-32 Code, is amended by adding Section 212.0085 to read as follows:

1-33 Sec. 212.0085. APPROVAL PROCEDURE: APPLICABILITY. The  
 1-34 approval procedures under this subchapter apply to a municipality  
 1-35 regardless of whether the municipality has entered into an  
 1-36 interlocal agreement, including an interlocal agreement between a  
 1-37 municipality and county under Section 242.001(d).

1-38 SECTION 3. The heading to Section 212.009, Local Government  
 1-39 Code, is amended to read as follows:

1-40 Sec. 212.009. APPROVAL PROCEDURE: INITIAL APPROVAL.

1-41 SECTION 4. Section 212.009, Local Government Code, is  
 1-42 amended by amending Subsections (a), (b), (c), and (d) and adding  
 1-43 Subsections (b-1) and (b-2) to read as follows:

1-44 (a) The municipal authority responsible for approving plats  
 1-45 shall approve, approve with conditions, or disapprove ~~act on~~  
 1-46 plan or plat within 30 days after the date the plan or plat is filed.  
 1-47 A plan or plat is ~~considered~~ approved by the municipal authority  
 1-48 unless it is disapproved within that period and in accordance with  
 1-49 Section 212.0091.

1-50 (b) If an ordinance requires that a plan or plat be approved  
 1-51 by the governing body of the municipality in addition to the  
 1-52 planning commission, the governing body shall approve, approve with  
 1-53 conditions, or disapprove ~~act on~~ the plan or plat within 30 days  
 1-54 after the date the plan or plat is approved by the planning  
 1-55 commission or is ~~considered~~ approved by the inaction of the  
 1-56 commission. A plan or plat is ~~considered~~ approved by the  
 1-57 governing body unless it is disapproved within that period and in  
 1-58 accordance with Section 212.0091.

1-59 (b-1) Notwithstanding Subsection (a) or (b), if a  
 1-60 groundwater availability certification is required under Section  
 1-61 212.0101, the 30-day period described by those subsections begins

2-1 on the date the applicant submits the groundwater availability  
2-2 certification to the municipal authority responsible for approving  
2-3 plats or the governing body of the municipality, as applicable.

2-4 (b-2) Notwithstanding Subsection (a) or (b), the parties  
2-5 may extend the 30-day period described by those subsections for a  
2-6 period not to exceed 30 days if:

2-7 (1) the applicant requests the extension in writing to  
2-8 the municipal authority responsible for approving plats or the  
2-9 governing body of the municipality, as applicable; and

2-10 (2) the municipal authority or governing body, as  
2-11 applicable, approves the extension request.

2-12 (c) If a plan or plat is approved, the municipal authority  
2-13 giving the approval shall endorse the plan or plat with a  
2-14 certificate indicating the approval. The certificate must be signed  
2-15 by:

2-16 (1) the authority's presiding officer and attested by  
2-17 the authority's secretary; or

2-18 (2) a majority of the members of the authority.

2-19 (d) If the municipal authority responsible for approving  
2-20 plats fails to approve, approve with conditions, or disapprove [act  
2-21 on] a plan or plat within the prescribed period, the authority on  
2-22 the applicant's request shall issue a certificate stating the date  
2-23 the plan or plat was filed and that the authority failed to act on  
2-24 the plan or plat within the period. The certificate is effective in  
2-25 place of the endorsement required by Subsection (c).

2-26 SECTION 5. Subchapter A, Chapter 212, Local Government  
2-27 Code, is amended by adding Sections 212.0091, 212.0093, 212.0095,  
2-28 212.0096, 212.0097, and 212.0099 to read as follows:

2-29 Sec. 212.0091. APPROVAL PROCEDURE: CONDITIONAL APPROVAL OR  
2-30 DISAPPROVAL REQUIREMENTS. (a) A municipal authority or governing  
2-31 body that conditionally approves or disapproves a plan or plat  
2-32 under this subchapter shall provide the applicant a written  
2-33 statement of the conditions for the conditional approval or reasons  
2-34 for disapproval that clearly articulates each specific condition  
2-35 for the conditional approval or reason for disapproval.

2-36 (b) Each condition or reason specified in the written  
2-37 statement:

2-38 (1) must:

2-39 (A) be directly related to the requirements under  
2-40 this subchapter; and

2-41 (B) include a citation to the law, including a  
2-42 statute or municipal ordinance, that is the basis for the  
2-43 conditional approval or disapproval, if applicable; and

2-44 (2) may not be arbitrary.

2-45 Sec. 212.0093. APPROVAL PROCEDURE: APPLICANT RESPONSE TO  
2-46 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional  
2-47 approval or disapproval of a plan or plat under Section 212.0091,  
2-48 the applicant may submit to the municipal authority or governing  
2-49 body that conditionally approved or disapproved the plan or plat a  
2-50 written response that satisfies each condition for the conditional  
2-51 approval or remedies each reason for disapproval provided. The  
2-52 municipal authority or governing body may not establish a deadline  
2-53 for an applicant to submit the response.

2-54 Sec. 212.0095. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL  
2-55 OF RESPONSE. (a) A municipal authority or governing body that  
2-56 receives a response under Section 212.0093 shall determine whether  
2-57 to approve or disapprove the applicant's previously conditionally  
2-58 approved or disapproved plan or plat not later than the 15th day  
2-59 after the date the response was submitted.

2-60 (b) A municipal authority or governing body that  
2-61 conditionally approves or disapproves a plan or plat following the  
2-62 submission of a response under Section 212.0093:

2-63 (1) must comply with Section 212.0091; and

2-64 (2) may disapprove the plan or plat only for a specific  
2-65 condition or reason provided to the applicant under Section  
2-66 212.0091.

2-67 (c) A municipal authority or governing body that receives a  
2-68 response under Section 212.0093 shall approve a previously  
2-69 conditionally approved or disapproved plan or plat if the response

3-1 adequately addresses each condition of the conditional approval or  
3-2 each reason for the disapproval.

3-3 (d) A previously conditionally approved or disapproved plan  
3-4 or plat is approved if:

3-5 (1) the applicant filed a response that meets the  
3-6 requirements of Subsection (c); and

3-7 (2) the municipal authority or governing body that  
3-8 received the response does not disapprove the plan or plat on or  
3-9 before the date required by Subsection (a) and in accordance with  
3-10 Section 212.0091.

3-11 Sec. 212.0096. APPROVAL PROCEDURE: ALTERNATIVE APPROVAL  
3-12 PROCESS. (a) Notwithstanding Sections 212.009, 212.0091, 212.0093,  
3-13 and 212.0095, an applicant may elect at any time to seek approval  
3-14 for a plan or plat under an alternative approval process adopted by  
3-15 a municipality if the process allows for a shorter approval period  
3-16 than the approval process described by Sections 212.009, 212.0091,  
3-17 212.0093, and 212.0095.

3-18 (b) An applicant that elects to seek approval under the  
3-19 alternative approval process described by Subsection (a) is not:

3-20 (1) required to satisfy the requirements of Sections  
3-21 212.009, 212.0091, 212.0093, and 212.0095 before bringing an action  
3-22 challenging a disapproval of a plan or plat under this subchapter;  
3-23 and

3-24 (2) prejudiced in any manner in bringing the action  
3-25 described by Subdivision (1), including satisfying a requirement to  
3-26 exhaust any and all remedies.

3-27 Sec. 212.0097. APPROVAL PROCEDURE: WAIVER PROHIBITED. A  
3-28 municipal authority responsible for approving plats or the  
3-29 governing body of a municipality may not request or require an  
3-30 applicant to waive a deadline or other approval procedure under  
3-31 this subchapter.

3-32 Sec. 212.0099. JUDICIAL REVIEW OF DISAPPROVAL. In a legal  
3-33 action challenging a disapproval of a plan or plat under this  
3-34 subchapter, the municipality has the burden of proving by clear and  
3-35 convincing evidence that the disapproval meets the requirements of  
3-36 this subchapter or any applicable case law. The court may not use a  
3-37 deferential standard.

3-38 SECTION 6. Section 212.014, Local Government Code, is  
3-39 amended to read as follows:

3-40 Sec. 212.014. REPLATTING WITHOUT VACATING PRECEDING PLAT.  
3-41 A replat of a subdivision or part of a subdivision may be recorded  
3-42 and is controlling over the preceding plat without vacation of that  
3-43 plat if the replat:

3-44 (1) is signed and acknowledged by only the owners of  
3-45 the property being replatted;

3-46 (2) is approved~~[, after a public hearing on the matter~~  
3-47 ~~at which parties in interest and citizens have an opportunity to be~~  
3-48 ~~heard,~~ by the municipal authority responsible for approving plats;  
3-49 and

3-50 (3) does not attempt to amend or remove any covenants  
3-51 or restrictions.

3-52 SECTION 7. Section 212.015, Local Government Code, is  
3-53 amended by adding Subsections (a-1), (f), and (g) and amending  
3-54 Subsection (b) to read as follows:

3-55 (a-1) If a proposed replat described by Subsection (a)  
3-56 requires a variance or exception, a public hearing must be held by  
3-57 the municipal planning commission or the governing body of the  
3-58 municipality.

3-59 (b) Notice of the hearing required under Subsection (a-1)  
3-60 ~~[Section 212.014]~~ shall be given before the 15th day before the date  
3-61 of the hearing by:

3-62 (1) publication in an official newspaper or a  
3-63 newspaper of general circulation in the county in which the  
3-64 municipality is located; and

3-65 (2) by written notice, with a copy of Subsection (c)  
3-66 attached, forwarded by the municipal authority responsible for  
3-67 approving plats to the owners of lots that are in the original  
3-68 subdivision and that are within 200 feet of the lots to be  
3-69 replatted, as indicated on the most recently approved municipal tax

4-1 roll or in the case of a subdivision within the extraterritorial  
 4-2 jurisdiction, the most recently approved county tax roll of the  
 4-3 property upon which the replat is requested. The written notice may  
 4-4 be delivered by depositing the notice, properly addressed with  
 4-5 postage prepaid, in a post office or postal depository within the  
 4-6 boundaries of the municipality.

4-7 (f) If a proposed replat described by Subsection (a) does  
 4-8 not require a variance or exception, the municipality shall, not  
 4-9 later than the 15th day after the date the replat is approved,  
 4-10 provide written notice by mail of the approval of the replat to each  
 4-11 owner of a lot in the original subdivision that is within 200 feet  
 4-12 of the lots to be replatted according to the most recent  
 4-13 municipality or county tax roll. This subsection does not apply to  
 4-14 a proposed replat if the municipal planning commission or the  
 4-15 governing body of the municipality holds a public hearing and gives  
 4-16 notice of the hearing in the manner provided by Subsection (b).

4-17 (g) The notice of a replat approval required by Subsection  
 4-18 (f) must include:

4-19 (1) the zoning designation of the property after the  
 4-20 replat; and

4-21 (2) a telephone number and e-mail address an owner of a  
 4-22 lot may use to contact the municipality about the replat.

4-23 SECTION 8. Subchapter A, Chapter 232, Local Government  
 4-24 Code, is amended by adding Section 232.0023 to read as follows:

4-25 Sec. 232.0023. APPROVAL PROCEDURE: APPLICABILITY. The plat  
 4-26 application approval procedures under this subchapter apply to a  
 4-27 county regardless of whether the county has entered into an  
 4-28 interlocal agreement, including an interlocal agreement between a  
 4-29 municipality and county under Section 242.001(d).

4-30 SECTION 9. The heading to Section 232.0025, Local  
 4-31 Government Code, is amended to read as follows:

4-32 Sec. 232.0025. APPROVAL PROCEDURE: TIMELY APPROVAL OF PLATS  
 4-33 AND PLANS.

4-34 SECTION 10. Section 232.0025, Local Government Code, is  
 4-35 amended by amending Subsections (d), (f), (g), (h), and (i), and  
 4-36 adding Subsection (d-1) to read as follows:

4-37 (d) Except as provided by Subsection (f), the commissioners  
 4-38 court or the court's designee shall approve, approve with  
 4-39 conditions, or disapprove [take final action on] a plat  
 4-40 application[, including the resolution of all appeals,] not later  
 4-41 than the 30th [60th] day after the date the [a] completed [plat]  
 4-42 application is received by the commissioners court or the court's  
 4-43 designee. An application is approved by the commissioners court or  
 4-44 the court's designee unless the application is disapproved within  
 4-45 that period and in accordance with Section 232.0026.

4-46 (d-1) Notwithstanding Subsection (d), if a groundwater  
 4-47 availability certification is required under Section 232.0032, the  
 4-48 30-day period described by that subsection begins on the date the  
 4-49 applicant submits the groundwater availability certification to  
 4-50 the commissioners court or the court's designee, as applicable.

4-51 (f) The 30-day [60-day] period under Subsection (d):

4-52 (1) may be extended for a [reasonable] period not to  
 4-53 exceed 30 days, if:

4-54 (A) requested and agreed to in writing by the  
 4-55 applicant and approved by the commissioners court or the court's  
 4-56 designee; or

4-57 (B) [(2) may be extended 60 additional days if]  
 4-58 Chapter 2007, Government Code, requires the county to perform a  
 4-59 takings impact assessment in connection with the [a] plat  
 4-60 application; and

4-61 (2) [(3)] applies only to a decision wholly within the  
 4-62 control of the commissioners court or the court's designee.

4-63 (g) The commissioners court or the court's designee shall  
 4-64 make the determination under Subsection (f)(1) [(f)(2)] of whether  
 4-65 the 30-day [60-day] period will be extended not later than the 20th  
 4-66 day after the date a completed plat application is received by the  
 4-67 commissioners court or the court's designee.

4-68 (h) The commissioners court or the court's designee may not  
 4-69 require [compel] an applicant to waive the time limits or approval

5-1 procedure contained in this subchapter [section].

5-2 (i) If the commissioners court or the court's designee fails  
 5-3 to approve, approve with conditions, or disapprove a plat  
 5-4 application [take final action on the plat] as required by this  
 5-5 subchapter [Subsection (d)]:

5-6 (1) the commissioners court shall refund the greater  
 5-7 of the unexpended portion of any [plat] application fee or deposit  
 5-8 or 50 percent of an [a plat] application fee or deposit that has  
 5-9 been paid;

5-10 (2) the [plat] application is granted by operation of  
 5-11 law; and

5-12 (3) the applicant may apply to a district court in the  
 5-13 county where the tract of land is located for a writ of mandamus to  
 5-14 compel the commissioners court to issue documents recognizing the  
 5-15 plat application's [plat's] approval.

5-16 SECTION 11. Subchapter A, Chapter 232, Local Government  
 5-17 Code, is amended by adding Sections 232.0026, 232.0027, 232.0028,  
 5-18 232.00285, and 232.0029 to read as follows:

5-19 Sec. 232.0026. APPROVAL PROCEDURE: CONDITIONAL APPROVAL OR  
 5-20 DISAPPROVAL REQUIREMENTS. (a) A commissioners court or designee  
 5-21 that conditionally approves or disapproves of a plat application  
 5-22 under this subchapter shall provide the applicant a written  
 5-23 statement of the conditions for the conditional approval or the  
 5-24 reasons for disapproval that clearly articulates each specific  
 5-25 condition for the conditional approval or reason for disapproval.

5-26 (b) Each condition or reason specified in the written  
 5-27 statement:

5-28 (1) must:

5-29 (A) be directly related to the requirements of  
 5-30 this subchapter; and

5-31 (B) include a citation to the law, including a  
 5-32 statute or order, that is the basis for the conditional approval or  
 5-33 disapproval, if applicable; and

5-34 (2) may not be arbitrary.

5-35 Sec. 232.0027. APPROVAL PROCEDURE: APPLICANT RESPONSE TO  
 5-36 CONDITIONAL APPROVAL OR DISAPPROVAL. After the conditional  
 5-37 approval or disapproval of a plat application under Section  
 5-38 232.0026, the applicant may submit to the commissioners court or  
 5-39 designee that conditionally approved or disapproved the  
 5-40 application a written response that satisfies each condition for  
 5-41 the conditional approval or remedies each reason for disapproval  
 5-42 provided. The commissioners court or designee may not establish a  
 5-43 deadline for an applicant to submit the response.

5-44 Sec. 232.0028. APPROVAL PROCEDURE: APPROVAL OR DISAPPROVAL  
 5-45 OF RESPONSE. (a) A commissioners court or designee that receives a  
 5-46 response under Section 232.0027 shall determine whether to approve  
 5-47 or disapprove the applicant's previously conditionally approved or  
 5-48 disapproved plat application not later than the 15th day after the  
 5-49 date the response was submitted under Section 232.0027.

5-50 (b) A commissioners court or designee that conditionally  
 5-51 approves or disapproves a plat application following the submission  
 5-52 of a response under Section 232.0027:

5-53 (1) must comply with Section 232.0026; and

5-54 (2) may disapprove the application only for a specific  
 5-55 condition or reason provided to the applicant for the original  
 5-56 application under Section 232.0026.

5-57 (c) A commissioners court or designee that receives a  
 5-58 response under Section 232.0027 shall approve a previously  
 5-59 conditionally approved or disapproved plat application if the  
 5-60 applicant's response adequately addresses each condition for the  
 5-61 conditional approval or each reason for the disapproval.

5-62 (d) A previously conditionally approved or disapproved plat  
 5-63 application is approved if:

5-64 (1) the applicant filed a response that meets the  
 5-65 requirements of Subsection (c); and

5-66 (2) the commissioners court or designee that received  
 5-67 the response does not disapprove the application on or before the  
 5-68 date required by Subsection (a) and in accordance with Section  
 5-69 232.0026.

6-1 Sec. 232.00285. DEVELOPMENT PLAN REVIEW. (a) In this  
6-2 section, "development plan" includes a preliminary plat,  
6-3 preliminary subdivision plan, subdivision construction plan, site  
6-4 plan, general plan, land development application, or site  
6-5 development plan.

6-6 (b) Unless explicitly authorized by another law of this  
6-7 state, a county may not require a person to submit a development  
6-8 plan during the plat approval process required by this subchapter.  
6-9 If a county is authorized under another law of this state to require  
6-10 approval of a development plan, the county must comply with the  
6-11 approval procedures under this subchapter during the approval  
6-12 process.

6-13 Sec. 232.0029. JUDICIAL REVIEW OF DISAPPROVAL. In a legal  
6-14 action challenging a disapproval of a plat application under this  
6-15 subchapter, the county has the burden of proving by clear and  
6-16 convincing evidence that the disapproval meets the requirements of  
6-17 this subchapter or any applicable case law. The court may not use a  
6-18 deferential standard.

6-19 SECTION 12. Section 232.0025(e), Local Government Code, is  
6-20 repealed.

6-21 SECTION 13. The change in law made by this Act applies only  
6-22 to a plat application filed on or after the effective date of this  
6-23 Act. A development or plan application filed before the effective  
6-24 date of this Act is governed by the law in effect immediately before  
6-25 the effective date of this Act, and that law is continued in effect  
6-26 for that purpose.

6-27 SECTION 14. This Act takes effect September 1, 2019.

6-28 \* \* \* \* \*