

BILL ANALYSIS

C.S.H.B. 1564
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Beginning in the 1960s, buyers all over the world were deceived into buying land in the American Southwest with promises of future development that never materialized. This has resulted in El Paso County having to contend with 50,000 acres carved into some 90,000 lots with all but a handful having utilities or other infrastructure and many of them abandoned. The abandoned lots are undeveloped and unoccupied and may remain abandoned for many years to come absent a new statutory framework that places them back into productive use. Without a new approach, the original buyers of these lots will have difficulty in recouping their initial investments, which have dwindled in value to only pennies on the dollar. These lots have virtually no economic value and present substantial environmental and safety risks. C.S.H.B. 1564 seeks to address this issue while also protecting private property rights by establishing a process by which a platted lot may be determined to be abandoned, unoccupied, and undeveloped and placed in a receivership so that the lot may be put back into the market for productive use.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 1564 amends the Local Government Code to establish a process for the appointment of a receivership for and disposition of certain platted lots that are abandoned, unoccupied, and undeveloped in a county with the following characteristics:

- the county has a population of more than 800,000;
- the county is adjacent to an international border; and
- the county contains more than 30,000 acres of lots that have remained substantially undeveloped for more than 25 years after the date the lots were platted.

C.S.H.B. 1564 authorizes the commissioners court of an applicable county, in addition to the authority granted relating to infrastructure requirements for certain undeveloped lots, to implement an expedited process to administratively determine that a platted lot is abandoned, unoccupied, and undeveloped if the lot meets the following conditions:

- the lot has remained undeveloped for 25 years or more after the date the lot was platted;
- the lot is part of a subdivision in which 50 percent or more of the lots are undeveloped or unoccupied;

- the lot is part of a subdivision in which 50 percent or more of the lots are 10 acres or less in size;
- the lot had an assessed value of less than \$1,000 as of January 1, 2021; and
- as of January 1, 2021, the lot was not valued for property taxation as land for agricultural use.

The bill establishes that the county does not have an ownership interest in any lot that is administratively determined to be abandoned, unoccupied, and undeveloped or that is placed in a receivership under the bill's provisions, except for any existing or future legal interest established by other law.

C.S.H.B. 1564 requires a county to do the following before it may make an administrative determination that a platted lot is abandoned, unoccupied, and undeveloped:

- hold a public hearing on the matter; and
- make reasonable efforts to notify each owner and lienholder of the lot of the time and place of the hearing as provided by the bill.

C.S.H.B. 1564 sets out provisions relating to the public hearing, including notice provisions, as well as the following:

- an affirmative defense to an administrative determination that a lot's property taxes have been paid in full for each year that the taxing authority issued a tax invoice;
- a county order of a determination that a lot is abandoned, unoccupied, and undeveloped; and
- appeal and judicial review of the county order.

C.S.H.B. 1564 requires a county, after a final determination that a platted lot is abandoned, unoccupied, and undeveloped, to bring a civil action to have the lot placed in a receivership. The bill sets out provisions regarding such an action and the selection of a receiver. The bill authorizes a receiver to do the following:

- take control of the platted lot;
- make or have made any repairs or improvements to the platted lot to make the lot developable;
- make provisions for the platted lot to be subject to street, road, drainage, utility, and other infrastructure requirements;
- aggregate the platted lot with other lots that have been similarly determined to be abandoned, unoccupied, and undeveloped;
- re-plat the platted lot;
- accept the grant or donation of any lot within the affected area to carry out the bill's purpose; and
- exercise all other authority that an owner of the platted lot could have exercised, including the authority to sell the lot.

The bill establishes that if the donation of a lot to the receiver is not challenged before the first anniversary of the donation date, the donation is final and not revocable under any other legal proceeding. The bill sets out provisions relating to the application of rules of equity, the receiver's sworn oath to perform their duties faithfully, the receiver's status as a court officer, and the appointment of successor receivers.

C.S.H.B. 1564 also sets out provisions relating to funds received by a receiver, including provisions that do the following:

- require all net proceeds from the disposition of a lot by a receiver to be placed in trust and remain in trust for at least three years, unless claimed before the trust period's expiration;
- require that any money remaining in the receivership escheat to the state on the trust period's expiration; and
- subject funds escheated to the state under the bill's provisions to disposition or recovery under applicable statutory provisions.

C.S.H.B. 1564 requires a receiver to file specified information with the court after the receiver has improved a platted lot to the degree that the lot is developable and meets all applicable standards or before petitioning the court for termination of the receivership. The bill requires the court to approve any sale of the property by a receiver and establishes that a receiver has a lien on the property under receivership for all of the receiver's unreimbursed costs and expenses and any applicable receivership fee.

C.S.H.B. 1564 requires a sale under the bill's provisions to be made by public auction, sealed bid, or sealed proposal and sets out related provisions, including notice requirements and an authorization for the receiver to reject all offers.

C.S.H.B. 1564 sets out certain legislative findings.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1564 differs from the original in minor or nonsubstantive ways by conforming to certain bill drafting conventions and making certain technical corrections. The following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision not in the original establishing as an affirmative defense to an administrative determination that a lot's property taxes have been paid in full for each year that the taxing authority issued a tax invoice.

The substitute includes provisions not in the original that do the following:

- authorize a receiver to accept the grant or donation of any lot within the affected area to carry out the bill's purpose; and
- establish that if the donation of a lot to the receiver is not challenged before the first anniversary of the donation date, the donation is final and not revocable under any other legal proceeding.

The substitute includes provisions not in the original regarding the sale of a property by public auction, sealed bid, or sealed proposal.