

BILL ANALYSIS

Senate Research Center
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H.B. 852
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Constitution requires that regulatory fees assessed by a municipality be proportional to the operating costs of the program for which the fee is charged. Fees that return more than what it costs to run the program associated with the regulation are an unauthorized occupations tax.

Despite being required by the Texas Constitution, Texas municipalities frequently do not base the amount owed for building permit or inspection fees on the municipality's cost to perform these inspections. Instead, fees are calculated based on the cost or estimated value of the home itself. The cost to build the home is either provided to the municipality through mandatory disclosure of its construction cost, contract or sale price. In some cases, building permit or inspection fees are compiled via a chart promulgated by the International Code Council using estimated national construction cost averages. An increase in the figures on the chart is often used as an occasion for the municipality to increase its fees even when the municipality's cost to provide these services remains unchanged.

Requiring disclosure of the cost to build a home or its contract or sales price can result in a fee that is an unauthorized occupations tax because these figures do not bear a reasonable relationship to the municipality's cost of performing the services covered by the fee. Disclosure of these figures to taxing authorities increases the property tax burden on all Texans. This, combined with higher regulatory fees, creates a barrier to housing affordability and reduces the opportunity for homeownership.

H.B. 852 prohibits municipalities from using the valuation or cost of a residential dwelling to determine the amount of permit or inspection fees charged. It prevents municipalities from requiring disclosure of the sales price, contract price, or other method for determining or estimating the value or cost of a residential dwelling.

There is an exception in the bill that does not prohibit disclosure of the value of or cost of constructing or improving a residential dwelling as a condition of obtaining a building permit if participating in the National Flood Insurance Program run by the Federal Emergency Management Agency.

H.B. 852 amends current law relating to information a municipality may consider in determining the amount of certain building permit and inspection fees.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter Z, Chapter 214, Local Government Code, by adding Section 214.907, as follows:

Sec. 214.907. PROHIBITION ON CERTAIN VALUE-BASED BUILDING PERMIT AND INSPECTION FEES. (a) Prohibits a municipality, in determining the amount of a

building permit or inspection fee required in connection with the construction or improvement of a residential dwelling, from considering:

(1) the value of the dwelling; or

(2) the cost of constructing or improving the dwelling.

(b) Prohibits a municipality from requiring the disclosure of information related to the value of or cost of constructing or improving a residential dwelling as a condition of obtaining a building permit except as required by the Federal Emergency Management Agency for participation in the National Flood Insurance Program.

SECTION 2. Makes application of Section 214.907(a), Local Government Code, as added by this Act, prospective.

SECTION 3. Effective date: upon passage or September 1, 2019.