

## **BILL ANALYSIS**

Senate Research Center  
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C.S.H.B. 3232  
By: Olivo et al. (Janek)  
Intergovernmental Relations  
5/18/2007  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, hearings are not required for any changes to a subdivision in which a golf course is included in the subdivision's development. Such hearings may help to protect the rights of persons who moved into a subdivision for the golf course.

C.S.H.B. 3232 requires the local municipality to conduct a hearing before considering approval of a replat.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to a municipal authority in SECTION 1 (Section 212.0155, Local Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter A, Chapter 212, Local Government Code, by adding Section 212.0155, as follows:

Sec. 212.0155. **ADDITIONAL REQUIREMENTS FOR CERTAIN REPLATS AFFECTING A SUBDIVISION GOLF COURSE.** (a) Provides that this section applies only to land located wholly or partly in the corporate boundaries of a municipality that meets certain criteria set forth in this subsection.

(b) Defines "management certificate," "new plat," "property owners' association" and "restrictive covenant," "restrictions," "subdivision," "owner," and "subdivision golf course."

(c) Requires a new plat, in addition to any other requirements of this chapter (Municipal Regulation of Subdivision and Property Development), to conform to the requirements of this section if any of the area subject to the new plat is a subdivision golf course. Provides that the exception provided in Section 212.004(a) (regarding the exclusion of divisions of land into parts greater than five acres for platting requirements) does not apply to a subdivision golf course.

(d) Prohibits a new plat that is subject to this section from being approved until each municipal authority reviewing the new plat conducts a public hearing on the matter at which the parties in interest and citizens have adequate opportunity to be heard, present evidence, and submit statements or petitions for consideration by the municipal authority. Authorizes the designation of the number, location, and procedure for such hearings by the municipal authority for a particular hearing. Authorizes the municipal authority to abate, continue, or reschedule any public hearing, as the municipal authority considers appropriate, in order to receive a full and complete record on which to make a decision. Provides that the municipal planning commission for purposes of this section if the new plat would otherwise be administratively approved.

(e) Prohibits the municipal authority from approving the new plat without adequate consideration of testimony and the record from the public hearings and making the findings required by Subsection (k). Requires the municipal authority, not later than the 30th day after the date on which all proceedings

necessary for the public hearings have concluded, to take action on the application for the new plat. Provides that Sections 212.009(a) and (b) (regarding certain requirements for plat approval) do not apply to the approval of plats under this section.

(f) Authorizes the municipality to provide notice of the initial hearing required by Subsection (d) only after the requirements of Subsections (m) and (n) are met. Requires the notice to be given before the 15th day before the date of the hearing by certain methods set forth in this subsection.

(g) Authorizes the written notice required by Subsection (f)(2) to be delivered by depositing the notice, properly address with postage prepaid, in the United States mail.

(h) Requires the cost of providing the notices under Subsection (f) to be paid by the plat applicant.

(i) Requires the proposed new plat to receive, to be approved, the affirmative vote of at least three-fifths of the members of the municipal planning commission or governing body if written instruments protesting said plat are signed by the owners of at least 20 percent of a certain area around the plat and are filed with the commission or the governing body before the conclusion of public hearings.

(j) Includes the area of streets and alleys in computing the percentage of land area under Subsection (i).

(k) Prohibits the municipal planning commission or the municipality's governing body from approving a new plat under this section unless certain determinations are made.

(l) Authorizes the municipal authority to adopt rules to govern the platting of a subdivision golf course that do not conflict with this section, including rules that require more detailed information than is required by Subsection (n) for plans for development and new plat applications.

(m) Provides that the application for a new plat is not complete and is prohibited from being submitted for review for administrative completeness unless the tax certificates required by Section 12.002(e) (regarding property attachments to certain plat applications, Property Code, are attached, notwithstanding that the application is for a type of plat other than a plat specified in that section.

(n) Provides that a plan for development or a new plat application for a subdivision golf course is not considered to provide fair notice of the project and nature of the permit sought unless it contains certain information that is complete in all material respects.

(o) Authorizes the municipal authority with authority over platting to require the area to be platted as a restricted reserve for the proposed use and the plat be incorporated into the plat for any adjacent residential lots as a condition for approval of a plat for a golf course.

(p) Authorizes an owner of a lot that is within 200 feet of a subdivision golf course to seek declaratory or injunctive relief from a district court to enforce the provisions of this section.

SECTION 2. Amends Section 82.051, Property Code, by adding Subsection (f), as follows:

(f) Provides that this chapter (Uniform Condominium Act) does not permit development of a subdivision golf course as defined by Section 212.0155(b), Local Government Code, without a plat if the plat is otherwise required by applicable law. Authorizes a municipality or county to require that the subdivision golf course be platted or replatted

as a condition to the development of a previously platted or unplatted subdivision golf course.

SECTION 3. (a) Makes application of Section 212.0155, Local Government Code, as added by this Act, prospective, notwithstanding Chapter 245 (Issuance of Local Permits).

(b) Provides that the change in law made by Section 212.0155, Local Government Code, as added by this Act, does not apply to a lawsuit filed before the effective date of this Act. Provides that this section applies to land that is the subject of a lawsuit filed before the effective date of this Act on the date the decision in that lawsuit becomes final or the suit is otherwise terminated.

SECTION 4. Effective date: upon passage or the 91st day after adjournment.