

Chapter 256

H.B. No. 1449

AN ACT

relating to prohibiting local governments from imposing certain fees on new construction.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The legislature finds that:

(1) fees and exactions imposed by political subdivisions to fund subsidized housing materially increase the cost of housing construction and other forms of construction in the state; and

(2) it is in the state's interest to incentivize housing affordability for Texas residents by circumscribing regulatory burdens imposed on the housing industry by political subdivisions.

SECTION 2. Chapter 250, Local Government Code, is amended by adding Section 250.008 to read as follows:

Sec. 250.008. LINKAGE FEES PROHIBITED. (a) A political subdivision may not adopt or enforce a charter provision, ordinance, order, or other regulation that imposes, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing.

(b) For purposes of this section:

(1) a fee is imposed indirectly on new construction if a charter provision, ordinance, order, or other regulation allows acceptance by the political subdivision of a fee on new

1 construction; and

2 (2) new construction includes zoning, subdivisions,  
3 site plans, and building permits associated with new construction.

4 (c) This section does not apply to:

5 (1) an affordable housing and property tax abatement  
6 program:

7 (A) adopted under Chapter 378 or Chapter 312, Tax  
8 Code, by a municipality with a population of more than 700,000; and

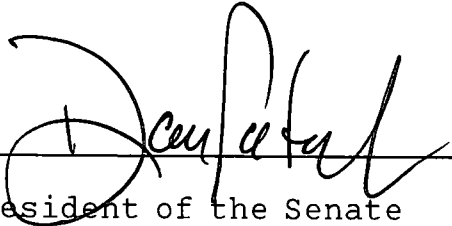
9 (B) for which eligibility is maintained as  
10 required under Chapter 312, Tax Code, as applicable; or

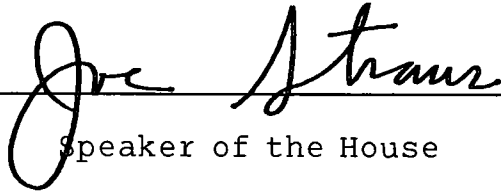
11 (2) an ordinance, order, or other similar measure that  
12 permits the voluntary payment of a fee in lieu of other  
13 consideration to a political subdivision in connection with the  
14 issuance of a zoning waiver related to new construction that allows  
15 a multifamily residential or commercial structure to exceed height  
16 or square footage limitations.

17 (d) A charter provision, ordinance, order, or other  
18 regulation adopted by a political subdivision that conflicts with  
19 this section is null and void.

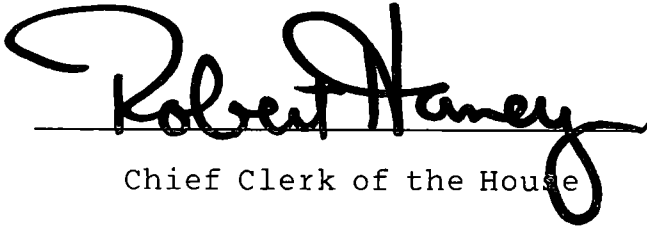
20 SECTION 3. The change in law made by this Act does not apply  
21 to an agreement relating to providing subsidized housing entered  
22 into before the effective date of this Act.

23 SECTION 4. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2017.

  
\_\_\_\_\_  
President of the Senate

H.B. No. 1449  
  
\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 1449 was passed by the House on May 3, 2017, by the following vote: Yeas 102, Nays 38, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1449 on May 20, 2017, by the following vote: Yeas 107, Nays 27, 2 present, not voting.

  
\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 1449 was passed by the Senate, with amendments, on May 18, 2017, by the following vote: Yeas 27, Nays 4.

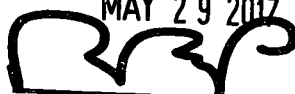
  
\_\_\_\_\_  
Secretary of the Senate

APPROVED: 5-29-2017

Date

  
\_\_\_\_\_  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:00 PM O'CLOCK

MAY 29 2017  
  
\_\_\_\_\_  
Secretary of State

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 19, 2017**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1449** by Simmons (Relating to prohibiting local governments from imposing certain fees on new construction.), **As Passed 2nd House**

<b>No fiscal implication to the State is anticipated.</b>
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The bill would amend the Local Government Code to prohibit a political subdivision from imposing, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing. Exempts residential density bonus programs in which a zoning waiver concerning height or square footage is issued for a voluntary fee payment. Exempts certain existing property tax abatement programs. Nullifies existing charter provisions, ordinances, orders, or other regulations in conflict with this bill. The provisions of the bill do not apply to agreements entered into before the effective date of the bill.

According to the Department of Housing and Community Affairs and the Department of Licensing and Regulation, no fiscal implication to the state is anticipated.

The bill would take effect immediately if it receives a vote of two-thirds of all the members elected to each house. If the bill does not receive the vote necessary for immediate effect, it would take effect September 1, 2017.

**Local Government Impact**

According to the Department of Housing and Community Affairs and the Department of Licensing and Regulation, no fiscal implication to local government is anticipated.

According to the Texas Municipal League, no fiscal implication to municipalities is anticipated.

**Source Agencies:** 332 Department of Housing and Community Affairs, 452 Department of Licensing and Regulation

**LBB Staff:** UP, CL, GG, GP, KK, EK

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 12, 2017**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** **HB1449** by Simmons (Relating to prohibiting local governments from imposing certain fees on new construction.), **Committee Report 2nd House, Substituted**

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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 10, 2017**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** HB1449 by Simmons (Relating to prohibiting local governments from imposing certain fees on new construction.), **As Engrossed**

**No fiscal implication to the State is anticipated.**

The bill would amend the Local Government Code to prohibit a political subdivision from imposing, directly or indirectly, a fee on new construction for the purposes of offsetting the cost or rent of any unit of residential housing. Establishes that fees for granting an exemption or waiver to zoning-related height restrictions are not covered by this prohibition. Exempts residential density bonus programs in which a zoning waiver is issued for a voluntary fee payment or the voluntary provision of affordable housing or other defined public benefit. Exempts certain existing property tax abatement programs. Nullifies existing charter provisions, ordinances, orders, or other regulations in conflict with this bill. The provisions of the bill do not apply to agreements entered into before the effective date of the bill.

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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 6, 2017**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** HB1449 by Simmons (relating to prohibiting local governments from imposing certain fees on new construction.), **Committee Report 1st House, Substituted**

**No fiscal implication to the State is anticipated.**

The bill would amend the Local Government Code to prohibit a political subdivision from imposing, directly or indirectly, a fee or other charge on new construction for the purposes of offsetting the cost or rent of any unit of residential housing. Establishes that fees for granting an exemption or waiver to zoning-related height restrictions are not covered by this prohibition. Exempts residential density bonus programs in which a zoning waiver is issued for a voluntary fee payment or the voluntary provision of affordable housing or other defined public benefit. Nullifies existing charter provisions, ordinances, orders, or other regulations in conflict with this bill. The provisions of the bill do not apply to agreements entered into before the effective date of the bill.

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**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**March 28, 2017**

**TO:** Honorable Dennis Bonnen, Chair, House Committee on Ways & Means

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB1449** by Simmons (Relating to prohibiting local governments from imposing certain fees on new construction.), **As Introduced**

**No fiscal implication to the State is anticipated.**

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