

## **BILL ANALYSIS**

S.B. 1609  
By: Bettencourt  
Business & Industry  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties are concerned that a property owners' association can exercise too much control over the types and locations of religious displays property owners and residents can display on their property. S.B. 1609 seeks to limit such control by prohibiting the enforcement or adoption of certain dedicatory instrument provisions.

### **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**

S.B. 1609 amends the Property Code to expand the prohibition against a property owners' association enforcing or adopting a restrictive covenant that prohibits a property owner or resident from displaying or affixing on the entry to the owner's or resident's dwelling one or more religious items the display of which is motivated by the owner's or resident's sincere religious belief so that the prohibition applies to the enforcement or adoption of a provision in any type of dedicatory instrument that prohibits a property owner or resident from displaying or affixing on the owner's or resident's property or dwelling one or more such religious items. The bill specifies that the exception to such a prohibition that is based on the display or affixing of a religious item being a violation of a law applies only to a violation of a law other than a law prohibiting the display of religious speech; specifies that the exception to that prohibition that is based on the religious item containing language, graphics, or any display that is patently offensive to a passerby applies only to a religious item containing language, graphics, or any display that is offensive to a passerby for reasons other than its religious content; and adds an exception to that prohibition for a religious item that is installed on property owned or maintained by the property owners' association or owned in common by members of the property owners' association.

S.B. 1609 removes exceptions to the prohibition that are based on the display or affixing of a religious item being in a location other than the entry door or door frame or extending past the outer edge of the door frame of the owner's or resident's dwelling or the item being individually or in combination with each other religious item displayed or affixed on the entry door or door frame of a total size greater than 25 square inches. The bill repeals statutory provisions relating to the nonapplicability of the prohibition to an owner's or resident's use of certain materials to make an unauthorized alteration to the owner's or resident's entry door or door frame and statutory provisions authorizing a property owners' association to remove certain religious items

displayed in violation of a restrictive covenant.

S.B. 1609 authorizes a property owners' association to enforce a provision of a dedicatory instrument, including a restrictive covenant, that prohibits the display of a religious item for more than 30 days if the item contains roofing material, siding, paving materials, one or more balloons or lights, or any other similar building component; is attached in any way to a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object; includes the painting of architectural surfaces; is a display that contains more than two components or a component that is larger than three feet by three feet by two feet; violates any applicable building line, right-of-way, setback, or easement; is accompanied by music, sounds, lights, reflective material, or streamers or is otherwise distracting to motorists; is not maintained as provided by law or a dedicatory instrument; or, subject to certain conditions, is installed without prior approval of the property owners' association or the association's architectural control committee, as applicable. The bill authorizes a property owners' association to enforce a provision of a dedicatory instrument, including a restrictive covenant, that prohibits the display of a religious item subject to such restriction for a religious event or holiday earlier than the 30th day before the date on which the religious event or holiday begins or later than the 14th day after the date on which the religious event or holiday ends. The bill establishes that these bill provisions are not a basis to prohibit an owner or resident from affixing on the entry door or door frame of the owner's or resident's dwelling one or more religious items the display of which is motivated by the owner's or resident's sincere religious belief if the items do not extend past the outer edge of the door frame of the dwelling and if the items individually or in combination with each other do not exceed 25 square inches.

S.B. 1609 requires a property owners' association or the association's architectural control committee, as applicable if prior approval of a display is required, to approve an owner's or resident's request to display a religious item if the display of the item complies with the association's dedicatory instruments consistent with certain provisions relating to the regulation of religious item displays. The bill requires the association to notify owners and residents that approval of the display of a religious item is required for a display that is not subject to certain restrictions under those provisions.

S.B. 1609 repeals Sections 202.018(c) and (d), Property Code.

### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.