

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2779
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Intergovernmental Relations
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to interested parties, disputes between property owners' associations and their members regarding whether a property owner is allowed to display a United States flag or certain other flags at the owner's residence indicate the need for state laws to provide clear guidance on the matter. C.S.H.B. 2779 addresses the issue by prohibiting a property owners' association from adopting or enforcing a dedicatory instrument provision that prohibits or otherwise restricts a property owner from displaying specified types of flags, with certain exceptions.

C.S.H.B. 2779 amends current law relating to provisions in the dedicatory instruments of property owners' associations regarding display of flags.

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 Chapter 202, Property Code, by adding Section 202.011, as follows:

Sec. 202.011. FLAG DISPLAY. (a) Prohibits a property owners' association, except as provided in this section, from adopting or enforcing a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

- (1) the flag of the United States of America;
- (2) the flag of the State of Texas;
- (3) an official or replica flag of any branch of the United States armed forces.

(b) Authorizes a property owners' association to adopt or enforce reasonable dedicatory instrument provisions:

- (1) that require the flag of the United States be displayed in accordance with 4 U.S.C. Sections 5-10, the flag of the State of Texas be displayed in accordance with Chapter 3100 (State Flag), Government Code, a flagpole attached to a dwelling or a freestanding flagpole be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling, the display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record, and a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;

(2) that regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one flagpole per property that is not more than 20 feet in height;

(3) that govern the size of a displayed flag; and

(4) that regulate the size, location, and intensity of any lights used to illuminate a displayed flag.

(5) that impose reasonable restrictions to abate noise caused by an external halyard of a flagpole; or

(6) that prohibit a property owner from locating a displayed flag or flagpole on property that is:

(A) owned or maintained by the property owners' association; or

(B) owned in common by the members of the association.

SECTION 2. Effective date: upon passage or September 1, 2011.