

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1609
By: Bettencourt; Kolkhorst
Intergovernmental Relations
5/10/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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.

C.S.S.B. 1609 amends current law relating to regulation by a property owners' association of certain religious displays.

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 Section 202.018, Property Code, by amending Subsections (a) and (b) and adding Subsection (b-1), (b-2), and (b-3), as follows:

(a) Prohibits a property owners' association from, except as otherwise provided by this section, enforcing or adopting a provision in a dedicatory instrument, including a restrictive covenant, that prohibits a property owner or resident from displaying or affixing on the owner's or resident's property or dwelling, rather than 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.

(b) Provides that this section does not prohibit the enforcement or adoption of a certain provision in a dedicatory instrument, including a covenant, that prohibits the display or affixing of certain items on the owner's or resident's property or dwelling. Makes conforming changes.

(b-1) Authorizes a property owner's association, except as provided by Subsection (b-3), to enforce a provision of a dedicatory instrument, including a restrictive covenant, that prohibits certain displays of religious items.

(b-2) Requires that a property owners' association or the association's architectural control committee, as applicable, if prior approval of a display is required, 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 Subsections (b) and (b-1)(1) (relating to prohibiting the display of a religious item for more than 30 days under certain circumstances). 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 restriction under Subsection (b) or Subsections (b-1)(1)(A) through (G) (relating to restrictions on displays of a religious item for more than 30 days).

(b-3) Provides that Subsection (b-1) is 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 individually or in combination with each other do not exceed 25 square inches.

SECTION 2. Repealers: Sections 202.018(c) (relating to use of certain material or color for an entry door or door frame) and (d) (relating to removal of a certain item), Property Code.

SECTION 3. Effective date: upon passage or September 1, 2017.