

By: Landgraf

H.B. No. 92

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the authority of a municipality, county, or property
3 owners' association to prohibit or regulate certain activities on
4 residence homestead property.

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

6 SECTION 1. Chapter 250, Local Government Code, is amended
7 by adding Section 250.014 to read as follows:

8 Sec. 250.014. ACTIVITIES ALLOWED ON RESIDENCE HOMESTEAD
9 PROPERTY. (a) In this section, "residence homestead property"
10 means real property that is all or part of a residence homestead, as
11 defined by Section 11.13(j), Tax Code.

12 (b) Notwithstanding any other law and except as provided by
13 this section, a municipality or county may not adopt or enforce an
14 ordinance that prohibits any of the following activities on
15 residence homestead property:

16 (1) growing fruits and vegetables;

17 (2) raising or keeping:

18 (A) six or fewer domestic fowl; or

19 (B) six or fewer adult rabbits; or

20 (3) installing for on-site use:

21 (A) a solar or wind-powered energy device, as
22 defined by Section 11.27, Tax Code;

23 (B) an underground shelter;

24 (C) rain barrels or a rainwater harvesting

1 system; or

2 (D) a standby electric generator, as defined by
3 Section 202.019, Property Code.

4 (c) A municipality or county may impose reasonable
5 regulations on the growing of fruits and vegetables on residence
6 homestead property that do not have the effect of prohibiting the
7 growing of the fruits or vegetables in the front, side, or rear yard
8 of a residence, including:

9 (1) a requirement that the growing area be maintained
10 in good condition if visible from the street faced by the property
11 or from an adjoining lot; and

12 (2) a requirement for the trimming or removal of a tree
13 as necessary for the maintenance of a utility easement.

14 (d) A municipality or county may impose reasonable
15 regulations on the raising or keeping of fowl or rabbits on
16 residence homestead property to control odor, noise, safety, or
17 sanitary conditions that do not have the effect of prohibiting the
18 raising or keeping of the fowl or rabbits, including:

19 (1) a limit on the number of fowl or rabbits that is
20 more than:

21 (A) the minimum number allowed by Subsection

22 (b)(2); or

23 (B) a total combined number of eight fowl and
24 rabbits, subject to the limits of Subsection (b)(2);

25 (2) a prohibition on raising or keeping a rooster;

26 (3) the minimum distance between an animal shelter and
27 a residential structure other than the animal owner's own

1 residence;

2 (4) a requirement for fencing or shelter sufficient to
3 contain the fowl or rabbits on the owner's residence homestead
4 property;

5 (5) minimum requirements for combined housing and
6 outdoor space of at least:

7 (A) 20 square feet per fowl; and

8 (B) nine square feet per rabbit;

9 (6) a requirement to address sanitary conditions in a
10 manner that prevents accumulation of animal waste in a quantity
11 sufficient to create an offensive odor or attract pests; or

12 (7) a requirement that the fowl or rabbits may only be
13 kept in the side or rear yard of a residence.

14 (e) This section does not apply to a condominium unit.

15 (f) An ordinance adopted by a municipality or county that
16 violates this section is void.

17 SECTION 2. Chapter 202, Property Code, is amended by adding
18 Section 202.024 to read as follows:

19 Sec. 202.024. ACTIVITIES ALLOWED ON RESIDENCE HOMESTEAD
20 PROPERTY. (a) In this section, "residence homestead property"
21 means real property that is all or part of a residence homestead, as
22 defined by Section 11.13(j), Tax Code.

23 (b) Notwithstanding any other law and except as provided by
24 this section, a property owners' association may not adopt or
25 enforce a restrictive covenant that prohibits any of the following
26 activities on residence homestead property:

27 (1) growing fruits and vegetables;

1 (2) raising or keeping:

2 (A) six or fewer domestic fowl; or

3 (B) six or fewer adult rabbits;

4 (3) installing for on-site use:

5 (A) a solar or wind-powered energy device, as
6 defined by Section 11.27, Tax Code;

7 (B) an underground shelter;

8 (C) rain barrels or a rainwater harvesting
9 system; or

10 (D) a standby electric generator, as defined by
11 Section 202.019; or

12 (4) producing food at a cottage food production
13 operation, as defined by Section 437.001(2-b), Health and Safety
14 Code.

15 (c) A property owners' association may adopt and enforce a
16 restrictive covenant imposing reasonable requirements on the
17 growing of fruits and vegetables on residence homestead property
18 that do not have the effect of prohibiting the growing of the fruits
19 or vegetables in the front, side, or rear yard of a residence,
20 including:

21 (1) a requirement that the growing area be maintained
22 in good condition if visible from the street faced by the property
23 or from an adjoining lot; and

24 (2) a requirement for the trimming or removal of a tree
25 as necessary for the maintenance of a utility easement.

26 (d) A property owners' association may adopt and enforce a
27 restrictive covenant imposing reasonable requirements on the

1 raising or keeping of fowl or rabbits on residence homestead
2 property to control odor, noise, safety, or sanitary conditions
3 that do not have the effect of prohibiting the raising or keeping of
4 the fowl or rabbits, including:

5 (1) a limit on the number of fowl or rabbits that is
6 more than:

7 (A) the minimum number allowed by Subsection
8 (b)(2); or

9 (B) a total combined number of eight fowl and
10 rabbits, subject to the limits of Subsection (b)(2);

11 (2) a prohibition on raising or keeping a rooster;

12 (3) the minimum distance between an animal shelter and
13 a residential structure other than the animal owner's own
14 residence;

15 (4) a requirement for fencing or shelter sufficient to
16 contain the fowl or rabbits on the owner's residence homestead
17 property;

18 (5) minimum requirements for combined housing and
19 outdoor space of at least:

20 (A) 20 square feet per fowl; and

21 (B) nine square feet per rabbit;

22 (6) a requirement to address sanitary conditions in a
23 manner that prevents accumulation of animal waste in a quantity
24 sufficient to create an offensive odor or attract pests; or

25 (7) a requirement that the fowl or rabbits may only be
26 kept in the side or rear yard of a residence.

27 (e) This section does not:

1 (1) restrict a property owners' association from:

2 (A) regulating the size and shielding of, or the
3 materials used in the construction of, an animal shelter that is
4 visible from a street, another lot, or a common area if the
5 restriction does not prohibit the economic installation of the
6 animal shelter on the property owner's residence homestead
7 property;

8 (B) regulating or prohibiting the installation
9 of signage by a cottage food operation; or

10 (C) regulating parking or vehicular or
11 pedestrian traffic associated with a cottage food operation; or

12 (2) require a property owners' association to permit
13 the growing of fruits or vegetables or the raising or keeping of
14 fowl or rabbits on property:

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

16 (B) owned in common by the members of the
17 property owners' association.

18 (f) This section does not apply to a condominium council of
19 owners governed by Chapter 81 or unit owners' association governed
20 by Chapter 82.

21 (g) A provision that violates this section is void.

22 SECTION 3. This Act takes effect September 1, 2023.