

By: Kitzman

H.B. No. 4995

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

(1) growing fruits and vegetables;

(2) raising or keeping:

(A) six or fewer domestic fowl; or

(B) six or fewer adult rabbits; or

(3) installing for on-site use:

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

(B) an underground shelter;

(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 SECTION 2. Chapter 250, Local Government Code, is amended
16 by adding Section 250.015 to read as follows:

17 Sec. 250.015. MUNICIPAL OR COUNTY REGULATIONS VOID. An
18 order, ordinance, rule or other regulation adopted by a
19 municipality or county that violates Section 250.014 is void.

20 SECTION 3. Chapter 202, Property Code, is amended by adding
21 Section 202.027 to read as follows:

22 Sec. 202.027. ACTIVITIES ALLOWED ON RESIDENCE HOMESTEAD
23 PROPERTY. (a) In this section, "residence homestead property"
24 means real property that is all or part of a residence homestead, as
25 defined by Section 11.13(j), Tax Code.

26 (b) Notwithstanding any other law and except as provided by
27 this section, a property owners' association may not adopt or

1 enforce a restrictive covenant that prohibits any of the following
2 activities on residence homestead property:

3 (1) growing fruits and vegetables;

4 (2) raising or keeping:

5 (A) six or fewer domestic fowl; or

6 (B) six or fewer adult rabbits;

7 (3) installing for on-site use:

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

10 (B) an underground shelter;

11 (C) rain barrels or a rainwater harvesting
12 system; or

13 (D) a standby electric generator, as defined by
14 Section 202.019; or

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

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

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

27 (2) a requirement for the trimming or removal of a tree

1 as necessary for the maintenance of a utility easement.

2 (d) A property owners' association may adopt and enforce a
3 restrictive covenant imposing reasonable requirements on the
4 raising or keeping of fowl or rabbits on residence homestead
5 property to control odor, noise, safety, or sanitary conditions
6 that do not have the effect of prohibiting the raising or keeping of
7 the fowl or rabbits, including:

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

10 (A) the minimum number allowed by Subsection
11 (b)(2); or

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

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

15 (3) the minimum distance between an animal shelter and
16 a residential structure other than the animal owner's own
17 residence;

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

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

23 (A) 20 square feet per fowl; and

24 (B) nine square feet per rabbit;

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

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

3 SECTION 4. Section 151.3131(b), Tax Code, is amended to
4 read as follows:

5 (b) The sale, storage, use, or other consumption of a
6 firearm, a firearm accessory, ammunition, or firearm safety
7 equipment is exempted from the taxes imposed by this chapter.

8 SECTION 5. Chapter 202, Property Code, is amended by adding
9 Section 202.025 to read as follows:

10 Sec. 202.025. LIMITATIONS. (a) Section 202.024 does not:

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

12 (A) regulating the size and shielding of, or the
13 materials used in the construction of, an animal shelter that is
14 visible from a street, another lot, or a common area if the
15 restriction does not prohibit the economic installation of the
16 animal shelter on the property owner's residence homestead
17 property;

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

20 (2) require a property owners' association to permit
21 the growing of fruits or vegetables or the raising or keeping of
22 fowl or rabbits on property:

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

24 (B) owned in common by the members of the
25 property owners' association.

26 (b) Section 202.024 does not apply to a condominium council
27 of owners governed by Chapter 81 or unit owners' association

1 governed by Chapter 82.

2 SECTION 6. Chapter 202, Property Code, is amended by adding
3 Section 202.026 to read as follows:

4 Sec. 202.026. DEDICATORY INSTRUMENTS VOID. A provision in
5 a dedicatory instrument that violates Section 202.024 is void.

6 SECTION 7. Chapter 202, Property Code, is amended by adding
7 Section 202.024 to read as follows:

8 Sec. 202.024. FOOD PRODUCTION ALLOWED ON SINGLE-FAMILY
9 RESIDENTIAL LOT. (a) Notwithstanding any other law and except as
10 provided by this section, a property owners' association may not
11 adopt or enforce a restrictive covenant that prohibits any of the
12 following activities on a single-family residential lot:

13 (1) growing fruits and vegetables;

14 (2) raising or keeping:

15 (A) six or fewer domestic fowl; or

16 (B) six or fewer adult rabbits; or

17 (3) producing food at a cottage food production
18 operation, as defined by Section 437.001(2-b), Health and Safety
19 Code.

20 (b) A property owners' association may adopt and enforce a
21 restrictive covenant imposing reasonable requirements on the
22 growing of fruits and vegetables on a single-family residential lot
23 that do not have the effect of prohibiting the growing of the fruits
24 or vegetables in the front, side, or rear yard of a residence,
25 including:

26 (1) a requirement that the growing area be maintained
27 in good condition if visible from the street faced by the lot or

1 from an adjoining lot; and

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

4 (c) A property owners' association may adopt and enforce a
5 restrictive covenant imposing reasonable requirements on the
6 raising or keeping of fowl or rabbits on a single-family
7 residential lot to control odor, noise, safety, or sanitary
8 conditions that do not have the effect of prohibiting the raising or
9 keeping of the fowl or rabbits, including:

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

12 (A) the minimum number allowed by Subsection
13 (a)(2); or

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

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

17 (3) the minimum distance between an animal shelter and
18 a residential structure other than the animal owner's own
19 residence;

20 (4) a requirement for fencing or shelter sufficient to
21 contain the fowl or rabbits on the owner's property;

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

24 (A) 20 square feet per fowl; and

25 (B) nine square feet per rabbit;

26 (6) a requirement to address sanitary conditions in a
27 manner that prevents accumulation of animal waste in a quantity

1 sufficient to create an offensive odor or attract pests; or

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

4 (d) This section does not:

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

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

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

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

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

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

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

22 (f) A provision that violates this section is void.

23 SECTION 8. Section 250.014, Local Government Code, as added
24 by this Act, applies to an order, ordinance, resolution, rule, or
25 other regulation adopted before, on, or after the effective date of
26 this Act.

27 SECTION 9. This Act takes effect on September 1, 2023.