

BILL ANALYSIS

C.S.H.B. 1279
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Some Home Owners Associations (HOAs) have banned flag poles and other flag displays from the yards of homes under their jurisdiction. Often there is nothing in the covenant that would prohibit home owners from erecting a flag pole. In these cases, the board makes the decision and the home owner has no recourse. HB 1279 would allow a property owner to display a flag on their property with certain restrictions and obligations.

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

Amends Chapter 202, Property Code, by adding a new Sec. 202.007 which would allow a property owners' association to enforce a restrictive covenant that prohibits or restricts the display of a flag by a property owner only if the prohibition is clearly and specifically stated in the covenant. However, a restrictive covenant, rule or other prohibition may not be adopted to prevent the display of an American or Texas flag up to 3 feet by 5 feet with certain restrictions and obligations. Allows the adoption of a restrictive covenant or rule for a flag larger than 3 feet by 5 feet. States which statutes define a respectful manner of display. Effective date. Non-retroactive clause, except for Sec. 202.007(a) of the Property Code.

EFFECTIVE DATE

September 1, 2003

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill prohibited the adoption of a HOA covenant restricting the display of an American or Texas flag on a flag pole that is 18 feet tall or shorter. The substitute clarifies that HOAs may adopt a restrictive covenant or rule in certain cases, but may not restrict display of a flag unless clearly and specifically stated in a covenant or unless the size of the flag is larger than 3 feet by 5 feet. A property owner may not be prohibited from displaying a U.S. or Texas flag 3 feet by 5 feet or smaller in a respectful manner or, if the property is one-third acre or larger, on a flagpole 18 feet or shorter. The substitute also lists statutes which relate to displaying a flag respectfully.

