

AN ACT

relating to prohibiting the creation or enforcement of certain restrictive covenants that undermine water conservation.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.007 to read as follows:

Sec. 202.007. CERTAIN RESTRICTIVE COVENANTS PROHIBITED.

(a) A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from:

(1) implementing measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush, or leaving grass clippings uncollected on grass;

(2) installing rain barrels or a rainwater harvesting system; or

(3) implementing efficient irrigation systems, including underground drip or other drip systems.

(b) A provision that violates Subsection (a) is void.

(c) A property owners' association may restrict the type of turf used by a property owner in the planting of new turf to encourage or require water-conserving turf.

(d) This section does not:

(1) restrict a property owners' association from regulating the requirements, including size, type, shielding, and

1 materials, for or the location of a composting device, rain barrel,
2 rain harvesting device, or any other appurtenance if the
3 restriction does not prohibit the economic installation of the
4 device or appurtenance on the property owner's property where there
5 is reasonably sufficient area to install the device or
6 appurtenance;

7 (2) require a property owners' association to permit a
8 device or appurtenance described by Subdivision (1) to be installed
9 in or on property:

10 (A) owned by the property owners' association;

11 (B) owned in common by the members of the
12 property owners' association; or

13 (C) in an area other than the fenced yard or patio
14 of a property owner;

15 (3) prohibit a property owners' association from
16 regulating the installation of efficient irrigation systems,
17 including establishing visibility limitations for aesthetic
18 purposes;

19 (4) prohibit a property owners' association from
20 regulating the installation or use of gravel, rocks, or cacti; or

21 (5) restrict a property owners' association from
22 regulating yard and landscape maintenance if the restrictions or
23 requirements do not restrict or prohibit turf or landscaping design
24 that promotes water conservation.

25 (e) This section does not apply to a property owners'
26 association that:

27 (1) is located in a municipality with a population of

1 more than 175,000 that is located in a county in which another
2 municipality with a population of more than one million is
3 predominantly located; and

4 (2) manages or regulates a development in which at
5 least 4,000 acres of the property is subject to a covenant,
6 condition, or restriction designating the property for commercial
7 use, multifamily dwellings, or open space.

8 SECTION 2. (a) This Act takes effect September 1, 2003.

9 (b) The change in law made by this Act applies to a provision
10 in a dedicatory instrument as that term is defined by Section
11 202.001(1), Property Code, recorded on or after the effective date
12 of this Act.

President of the Senate

Speaker of the House

I certify that H.B. No. 645 was passed by the House on May 1, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 645 on June 1, 2003, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 645 was passed by the Senate, with amendments, on May 28, 2003, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor