

By: Patrick

S.B. No. 1792

A BILL TO BE ENTITLED

AN ACT

relating to unenforceable restrictive covenants affecting residential homes.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.012 to read as follows:

Sec. 202.012. FLAG DISPLAY. (a) In this section, "owner" has the meaning assigned by Section 201.003, except that the term also includes a relative or tenant of an owner.

(b) A property owners' association may not, except as provided in this section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

(1) the flag of the United States of America;

(2) the flag of the State of Texas; or

(3) an official or replica flag of any branch of the United States armed forces.

(c) A property owners' association may adopt or enforce reasonable dedicatory instrument provisions:

(1) that require:

(A) the flag of the United States be displayed in accordance with 4 U.S.C. Sections 5-10;

(B) the flag of the State of Texas be displayed in accordance with Chapter 3100, Government Code;

1 (C) a flagpole attached to a dwelling or a
2 freestanding flagpole be constructed of permanent, long-lasting
3 materials, with a finish appropriate to the materials used in the
4 construction of the flagpole and harmonious with the dwelling;

5 (D) the display of a flag, or the location and
6 construction of the supporting flagpole, to comply with applicable
7 zoning ordinances, easements, and setbacks of record; and

8 (E) a displayed flag and the flagpole on which it
9 is flown be maintained in good condition and that any deteriorated
10 flag or deteriorated or structurally unsafe flagpole be repaired,
11 replaced, or removed;

12 (2) that regulate the location of the flagpole on
13 which a flag is displayed, except that the regulation may not
14 prevent the flag from being seen or a flagpole from being installed
15 or erected;

16 (3) that govern the size of a displayed flag; and

17 (4) that regulate the size, location, and intensity of
18 any lights used to illuminate a displayed flag.

19 SECTION 2. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2011.