| **House Bill 2779**  Senate Amendments  Section-by-Section Analysis | | |
| --- | --- | --- |
| HOUSE VERSION | SENATE VERSION (CS) | CONFERENCE |
| SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.011 to read as follows:  Sec. 202.011. FLAG DISPLAY. (a) 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;  (3) a flag of a political subdivision of this state; or  (4) an official or replica flag of any branch of the United States armed forces.  (b) 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;  (C) a flagpole attached to a dwelling or a freestanding flagpole be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;  (D) the display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record; and  (E) a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;  (2) that regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one flagpole per property that is not more than 20 feet in height;  (3) that govern the size of a displayed flag;  (4) that regulate the size, location, and intensity of any lights used to illuminate a displayed flag;  (5) that impose reasonable restrictions to abate noise caused by an external halyard of a flagpole; or  (6) that prohibit a property owner from locating a displayed flag or flagpole on property that is:  (A) owned or maintained by the property owners' association; or  (B) owned in common by the members of the association. | SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.011 to read as follows:  Sec. 202.011. FLAG DISPLAY. (a) 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.  (b) 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;  (C) a flagpole attached to a dwelling or a freestanding flagpole be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;  (D) the display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record; and  (E) a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;  (2) that regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one flagpole per property that is not more than 20 feet in height;  (3) that govern the size of a displayed flag;  (4) that regulate the size, location, and intensity of any lights used to illuminate a displayed flag;  (5) that impose reasonable restrictions to abate noise caused by an external halyard of a flagpole; or  (6) that prohibit a property owner from locating a displayed flag or flagpole on property that is:  (A) owned or maintained by the property owners' association; or  (B) owned in common by the members of the association. |  |
| SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011. | SECTION 2. Same as House version. |  |