

BILL ANALYSIS

S.B. 198
By: Watson
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

S.B. 198 removes a barrier that prevents some property owners from reducing their water use by protecting a homeowner's right to install a drought-resistant landscape or water-conserving turf.

The drought of 2011 ranked as the most intense one-year drought in recorded history in many parts of Texas. Maintaining a green lawn and a lush landscape becomes particularly water-intensive and expensive in times of drought. Bans and limits on outdoor watering, while necessary and often mandatory in times of drought, only add to the difficulty. In response to these challenges, many Texas homeowners have become increasingly interested in landscape alternatives that require less water to maintain.

Despite some progress, many property owners' association covenants and restrictions continue to present a barrier for homeowners who wish to transition to a drought-resistant and less water-intensive landscape and lawn.

While not precluding the ability of a home owners' association or property owners' association to approve or establish parameters for a homeowner's landscape plan, S.B. 198 clearly establishes that an association's covenant or restriction cannot prohibit or restrict a homeowner's use of drought-resistant landscaping or water-conserving turf.

As proposed, S.B. 198 amends current law relating to restrictive covenants regulating drought-resistant landscaping or water-conserving turf.

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

SECTION 1. Amends Section 202.007, Property Code, by amending Subsections (a) and (d) and adding Subsection (d-1), as follows:

(a) Provides that a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from implementing certain measures, including using a drought-resistant landscaping or water-conserving turf.

(d) Provides that this section does not restrict, prohibit, or require certain property owners' association actions, including prohibiting a property owners' association from requiring an owner to submit a detailed description or a plan for the installation of drought-resistant landscaping or water-conserving natural turf for review and approval by the property owners' association to ensure, to the extent practicable, maximum aesthetic compatibility with other landscaping in the subdivision. Makes nonsubstantive changes.

(d-1) Prohibits a property owners' association from unreasonably denying or withholding approval of a proposed installation of drought-resistant landscaping or water-conserving natural turf under Subsection (d)(8) (relating to Section 202.007 not restricting, prohibiting, or requiring certain property owners' association actions) or unreasonably

determining that the proposed installation is aesthetically incompatible with other landscaping in the subdivision.

SECTION 2. Provides for the effective date of this Act.

EFFECTIVE DATE

This Act takes effect on September 1, 2013.