

By: Dukes, et al.

H.B. No. 449

Substitute the following for H.B. No. 449:

By: Johnson

C.S.H.B. No. 449

A BILL TO BE ENTITLED

AN ACT

relating to restrictive covenants regulating drought-resistant landscaping or water-conserving natural turf.

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

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

(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; or

(4) using drought-resistant landscaping or water-conserving natural turf.

(d) This section does not:

(1) restrict a property owners' association from regulating the requirements, including size, type, shielding, and materials, for or the location of a composting device if the restriction does not prohibit the economic installation of the

device on the property owner's property where there is reasonably sufficient area to install the device;

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

(A) owned by the property owners' association;

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

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

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

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

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

(6) require a property owners' association to permit a rain barrel or rainwater harvesting system to be installed in or on property if:

(A) the property is:

(i) owned by the property owners' association;

(ii) owned in common by the members of the

1 property owners' association; or

2 (iii) located between the front of the  
3 property owner's home and an adjoining or adjacent street; or

4 (B) the barrel or system:

5 (i) is of a color other than a color  
6 consistent with the color scheme of the property owner's home; or

7 (ii) displays any language or other content  
8 that is not typically displayed by such a barrel or system as it is  
9 manufactured; ~~or~~

10 (7) restrict a property owners' association from  
11 regulating the size, type, and shielding of, and the materials used  
12 in the construction of, a rain barrel, rainwater harvesting device,  
13 or other appurtenance that is located on the side of a house or at  
14 any other location that is visible from a street, another lot, or a  
15 common area if:

16 (A) the restriction does not prohibit the  
17 economic installation of the device or appurtenance on the property  
18 owner's property; and

19 (B) there is a reasonably sufficient area on the  
20 property owner's property in which to install the device or  
21 appurtenance; or

22 (8) prohibit a property owners' association from  
23 requiring an owner to submit a detailed description or a plan for  
24 the installation of drought-resistant landscaping or  
25 water-conserving natural turf for review and approval by the  
26 property owners' association to ensure, to the extent practicable,  
27 maximum aesthetic compatibility with other landscaping in the

1 subdivision.

2        (d-1) A property owners' association may not unreasonably  
3 deny or withhold approval of a proposed installation of  
4 drought-resistant landscaping or water-conserving natural turf  
5 under Subsection (d)(8) or unreasonably determine that the proposed  
6 installation is aesthetically incompatible with other landscaping  
7 in the subdivision.

8        SECTION 2. This Act takes effect September 1, 2013.