

BILL ANALYSIS

C.S.H.B. 748
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have raised concerns regarding residential developers owning the propane distribution system in a community development or having deed restrictions favoring certain propane distributors that hold the customer captive to the propane operator in the community development. C.S.H.B. 748 seeks to provide a free-market solution to this problem.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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

C.S.H.B. 748 amends the Local Government Code and Property Code to prohibit a municipality or county or a property owners' association, respectively, from enacting or enforcing an order or ordinance or adopting or enforcing a dedicatory instrument provision, as applicable, that prohibits, restricts, or has the effect of prohibiting or restricting a property owner from installing a liquid propane gas tank above ground on the owner's residential property if the tank is a size reasonably necessary to meet the gas requirements of the residence. The bill authorizes the municipality or property owners' association, as applicable, to require the owner to screen the tank from view with reasonable screening materials, but conditions the municipality's authority on the tank being located on residential property within the municipality's corporate boundaries.

C.S.H.B. 748 amends the Property Code to authorize a property owners' association to adopt or enforce a dedicatory instrument provision that prohibits or restricts the installation of a liquid propane gas tank that has one of the following qualities:

- as adjudicated by a court, threatens the public health or safety or violates a law;
- is located on property other than property owned and maintained by the property owner;
- is located in an area on the property owner's property other than a rear or side yard and is not surrounded by a solid privacy fence approved by the association or otherwise screened in a manner approved by the association;
- if located in a fenced yard or patio, is taller than the fence line;
- as installed, voids material warranties; or
- was installed without prior approval by the association or by a committee created in a dedicatory instrument for such purposes that provides decisions within a reasonable

period or within a period specified in the dedicatory instrument.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 748 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.019 to read as follows:

Sec. 202.019. REGULATION OF LIQUID PROPANE GAS TANKS. (a) A property owners' association may not, except as provided by this section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting a property owner from installing a liquid propane gas tank above ground on the owner's residential property if the tank is a size reasonably necessary to meet the gas requirements of the residence.

(b) The property owners' association may require the owner to screen the tank from view with reasonable screening materials.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.019 to read as follows:

Sec. 202.019. REGULATION OF LIQUID PROPANE GAS TANKS. (a) A property owners' association may not, except as provided by this section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting a property owner from installing a liquid propane gas tank above ground on the owner's residential property if the tank is a size reasonably necessary to meet the gas requirements of the residence.

(b) The property owners' association may require the owner to screen the tank from view with reasonable screening materials.

(c) A property owners' association may adopt or enforce a dedicatory instrument provision that prohibits or restricts the installation of a liquid propane gas tank that:

(1) as adjudicated by a court:

(A) threatens the public health or safety; or

(B) violates a law;

(2) is located on property other than property owned and maintained by the property owner;

(3) is located in an area on the property owner's property other than a rear or side yard and is not:

(A) surrounded by a solid privacy fence approved by the association; or

(B) otherwise screened in a manner approved by the association;

(4) if located in a fenced yard or patio, is taller than the fence line;

(5) as installed, voids material warranties;

or
(6) was installed without prior approval by the property owners' association or by a

committee created in a dedicatory instrument for such purposes that provides decisions within a reasonable period or within a period specified in the dedicatory instrument.

SECTION 2. Chapter 250, Local Government Code, is amended by adding Section 250.007 to read as follows:

Sec. 250.007. REGULATION OF LIQUID PROPANE GAS TANKS ON RESIDENTIAL PROPERTY. (a) A municipality or county may not, except as provided by this section, enact or enforce an order or ordinance that prohibits, restricts, or has the effect of prohibiting or restricting a property owner from installing a liquid propane gas tank above ground on the owner's residential property if the tank is a size reasonably necessary to meet the gas requirements of the residence.

(b) The municipality or county may require the owner to screen the tank from view with reasonable screening materials.

SECTION 3. 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, 2015.

SECTION 2. Chapter 250, Local Government Code, is amended by adding Section 250.007 to read as follows:

Sec. 250.007. REGULATION OF LIQUID PROPANE GAS TANKS ON RESIDENTIAL PROPERTY. (a) A municipality or county may not, except as provided by this section, enact or enforce an order or ordinance that prohibits, restricts, or has the effect of prohibiting or restricting a property owner from installing a liquid propane gas tank above ground on the owner's residential property if the tank is a size reasonably necessary to meet the gas requirements of the residence.

(b) If the tank is located on residential property within the corporate boundaries of the municipality, the municipality may require the owner to screen the tank from view with reasonable screening materials.

SECTION 3. Same as introduced version.