

By: Workman

H.B. No. 1442

A BILL TO BE ENTITLED

AN ACT

relating to a property owner's right to remove a tree or vegetation that the owner believes poses a fire risk.

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

SECTION 1. Section 240.909(b), Local Government Code, is amended to read as follows:

(b) Except as provided by Section 250.007, the ~~[The]~~ commissioners court of a county subject to this section may prohibit or restrict the clear-cutting of live oak trees in the unincorporated area of the county.

SECTION 2. The heading to Chapter 250, Local Government Code, is amended to read as follows:

CHAPTER 250. MISCELLANEOUS LOCAL GOVERNMENT REGULATORY AUTHORITY
~~[OF MUNICIPALITIES AND COUNTIES]~~

SECTION 3. Chapter 250, Local Government Code, is amended by adding Section 250.007 to read as follows:

Sec. 250.007. REMOVAL OF TREE OR VEGETATION THAT POSES FIRE RISK. (a) Except as provided by Subsections (b) and (c), a municipality, county, or other political subdivision may not enact or enforce any ordinance, rule, or other regulation that restricts the ability of a property owner to remove a tree or vegetation on the owner's property that the owner believes poses a risk of fire to a structure on the property or on adjacent property, including a regulation that requires the owner to file an affidavit or notice

1 before removing the tree or vegetation.

2 (b) This section does not prevent the enforcement of an
3 ordinance, rule, or other regulation:

4 (1) on property being developed under a municipal
5 permit; or

6 (2) that:

7 (A) restricts the ability of a property owner to
8 remove a tree eight inches or larger in diameter at four and a half
9 feet above the natural ground, except that no restrictions may be
10 made on the ability to remove a mesquite (genus Prosopis), juniper
11 (genus Juniperus), or salt cedar (genus Tamarix) tree, regardless
12 of size; or

13 (B) is designed to mitigate tree-borne diseases
14 as recommended by the Texas A&M Forest Service.

15 (c) This section does not apply to a municipality whose
16 extraterritorial jurisdiction is immediately adjacent to or
17 includes all or part of a federal military installation in active
18 use as of September 1, 2015.

19 SECTION 4. Chapter 202, Property Code, is amended by adding
20 Section 202.013 to read as follows:

21 Sec. 202.013. REGULATION OF CERTAIN TREE OR VEGETATION
22 REMOVAL. (a) A property owners' association may not include or
23 enforce a provision in a dedicatory instrument that restricts the
24 ability of a property owner to remove a tree or vegetation on the
25 owner's property that the owner believes poses a risk of fire to a
26 structure on the property or on adjacent property, including a
27 provision that requires the owner to file an affidavit or notice

1 before removing the tree or vegetation.

2 (b) This section does not apply to a provision in a
3 dedicatory instrument designed to mitigate tree-borne disease as
4 recommended by the Texas A&M Forest Service.

5 SECTION 5. Section 202.013, Property Code, as added by this
6 Act, applies to a dedicatory instrument without regard to whether
7 the dedicatory instrument takes effect or is renewed before, on, or
8 after the effective date of this Act.

9 SECTION 6. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2015.