

## **BILL ANALYSIS**

C.S.H.B. 1572  
By: Workman  
Business & Industry  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties have expressed concern regarding the lack of protection for residential property owners against regulations restricting their ability to clear their property of certain trees or other plant species that they feel pose a fire risk. C.S.H.B. 1572 seeks to protect such a property owner's right to take this action with regards to certain plant species.

### **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. 1572 amends the Local Government Code to prohibit a political subdivision from enacting or enforcing any regulation that restricts the ability of a residential 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. This prohibition expressly does not prevent the enforcement of a regulation on residential property being developed under a municipal permit, a regulation that is designed to mitigate tree-borne diseases as recommended by the Texas A&M Forest Service, or a regulation that restricts the ability of a residential property owner to remove a tree with a specified diameter at a specified height above the natural ground, except that no restrictions may be made on the ability to remove a mesquite, juniper, salt cedar, or hackberry tree or a plant species included on the list of noxious and invasive plant species published by the Department of Agriculture as required by state law, regardless of size. The bill makes these provisions inapplicable to a municipality whose extraterritorial jurisdiction is immediately adjacent to or includes all or part of a federal military installation in active use as of September 1, 2017.

C.S.H.B. 1572 amends the Property Code to prohibit a property owners' association from including or enforcing a provision in a dedicatory instrument 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. The bill makes this prohibition inapplicable to a provision in a dedicatory instrument designed to mitigate tree-borne disease as recommended by the Texas A&M Forest Service or to an area of an owner's residential property that is in a specified drainage or conservation easement shown on a plat recorded with the applicable political subdivision. These provisions apply to a dedicatory instrument without regard to whether the dedicatory instrument takes effect or is renewed before, on, or after the bill's effective date.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1572 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**

**HOUSE COMMITTEE SUBSTITUTE**

SECTION 1. Section 240.909(b), Local Government Code, is amended.

SECTION 1. Same as introduced version.

SECTION 2. The heading to Chapter 250, Local Government Code, is amended.

SECTION 2. Same as introduced version.

SECTION 3. Chapter 250, Local Government Code, is amended by adding Section 250.008 to read as follows:

SECTION 3. Chapter 250, Local Government Code, is amended by adding Section 250.008 to read as follows:

Sec. 250.008. REMOVAL OF TREE OR VEGETATION THAT POSES FIRE RISK.

Sec. 250.008. REMOVAL OF TREE OR VEGETATION ON RESIDENTIAL PROPERTY 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 before removing the tree or vegetation.

(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 residential 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 before removing the tree or vegetation.

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

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

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

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

(2) that:

(2) that:

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

(A) restricts the ability of a residential property owner to remove a tree eight inches or larger in diameter at four and a half feet above the natural ground, except that no restrictions may be made on the ability to remove, regardless of size:

(i) a mesquite (genus Prosopis) tree;

(ii) a juniper (genus Juniperus) tree;

(iii) a salt cedar (genus Tamarix) tree;

(iv) a hackberry (genus Celtis) tree; or

(v) a plant species included on the list of noxious and invasive plant species

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

(c) This section does not apply to a municipality whose extraterritorial jurisdiction is immediately adjacent to or includes all or part of a federal military installation in active use as of September 1, 2017.

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

Sec. 202.013. REGULATION OF CERTAIN TREE OR VEGETATION REMOVAL. (a) A property owners' association may not include or enforce a provision in a dedicatory instrument 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 provision that requires the owner to file an affidavit or notice before removing the tree or vegetation.

(b) This section does not apply to:

(1) a provision in a dedicatory instrument designed to mitigate tree-borne disease as recommended by the Texas A&M Forest Service; or

(2) an area of an owner's property that is in a specified drainage or conservation easement shown on a plat recorded with the applicable political subdivision.

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

SECTION 6. 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, 2017.

published by the Department of Agriculture as required by Section 71.151, Agriculture Code; or

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

(c) This section does not apply to a municipality whose extraterritorial jurisdiction is immediately adjacent to or includes all or part of a federal military installation in active use as of September 1, 2017.

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

Sec. 202.013. REGULATION OF CERTAIN TREE OR VEGETATION REMOVAL. (a) A property owners' association may not include or enforce a provision in a dedicatory instrument 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 provision that requires the owner to file an affidavit or notice before removing the tree or vegetation.

(b) This section does not apply to:

(1) a provision in a dedicatory instrument designed to mitigate tree-borne disease as recommended by the Texas A&M Forest Service; or

(2) an area of an owner's residential property that is in a specified drainage or conservation easement shown on a plat recorded with the applicable political subdivision.

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

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