

By: Workman

H.B. No. 1572

Substitute the following for H.B. No. 1572:

By: Oliveira

C.S.H.B. No. 1572

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to a residential property owner's right to remove a tree or  
3 vegetation that the owner believes poses a fire risk.

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

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

7 (b) Except as provided by Section 250.008, the [The]  
8 commissioners court of a county subject to this section may  
9 prohibit or restrict the clear-cutting of live oak trees in the  
10 unincorporated area of the county.

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

13 CHAPTER 250. MISCELLANEOUS LOCAL GOVERNMENT REGULATORY AUTHORITY

14 [~~OF MUNICIPALITIES AND COUNTIES~~]

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

17 Sec. 250.008. REMOVAL OF TREE OR VEGETATION ON RESIDENTIAL  
18 PROPERTY THAT POSES FIRE RISK. (a) Except as provided by  
19 Subsections (b) and (c), a municipality, county, or other political  
20 subdivision may not enact or enforce any ordinance, rule, or other  
21 regulation that restricts the ability of a residential property  
22 owner to remove a tree or vegetation on the owner's property that  
23 the owner believes poses a risk of fire to a structure on the  
24 property or on adjacent property, including a regulation that

1 requires the owner to file an affidavit or notice before removing  
2 the tree or vegetation.

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

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

7 (2) that:

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

- 13 (i) a mesquite (genus Prosopis) tree;
- 14 (ii) a juniper (genus Juniperus) tree;
- 15 (iii) a salt cedar (genus Tamarix) tree;
- 16 (iv) a hackberry (genus Celtis) tree; or
- 17 (v) a plant species included on the list of  
18 noxious and invasive plant species published by the Department of  
19 Agriculture as required by Section 71.151, Agriculture Code; or

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

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

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

1       Sec. 202.013. REGULATION OF CERTAIN TREE OR VEGETATION  
2 REMOVAL. (a) A property owners' association may not include or  
3 enforce a provision in a dedicatory instrument that restricts the  
4 ability of a property owner to remove a tree or vegetation on the  
5 owner's property that the owner believes poses a risk of fire to a  
6 structure on the property or on adjacent property, including a  
7 provision that requires the owner to file an affidavit or notice  
8 before removing the tree or vegetation.

9       (b) This section does not apply to:

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

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

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

20       SECTION 6. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2017.