

BILL ANALYSIS

H.B. 2302
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There are concerns that some property owners' associations can exercise too much control over the content and location of religious displays permitted on the property of residents. It has been noted that the exhibition of these displays is sometimes limited by property owners' associations to the front door and required to follow certain guidelines. H.B. 2302 seeks to address this issue by restricting the ability of property owners' associations to limit religious displays.

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

H.B. 2302 amends the Property Code to expand a prohibition against the enforcement or adoption by a property owners' association of a restrictive covenant that prohibits a property owner or resident from displaying or affixing certain religious items on the entry to the owner's or resident's dwelling to apply to a provision in any dedicatory instrument and to include items displayed or affixed on the owner's or resident's property. The bill revises certain limitations to this prohibition as follows:

- by clarifying that the violation of law that constitutes a permissible reason for prohibiting an applicable religious display is a violation of a law other than a law prohibiting the display of religious speech;
- by clarifying that the patently offensive language, graphics, or display that constitute permissible grounds for such a prohibition are those that are offensive for reasons other than their religious content; and
- by authorizing a provision in a dedicatory instrument to prohibit the display or affixing of a religious item that is installed on property owned or maintained by the property owners' association or owned in common by members of the property owners' association.

H.B. 2302 authorizes a property owners' association to enforce a provision of a dedicatory instrument:

- that limits the display of a religious item to 30 days based on specified physical characteristics, certain violations regarding location or maintenance, or lack of prior approval under certain circumstances; or
- that limits the display for a religious event or holiday of a religious item otherwise subject to the 30-day limit to a specified period surrounding the event or holiday.

H.B. 2302 requires a property owners' association or the association's architectural control committee, as applicable, if prior approval of a display is required, to approve an owner's or resident's request to display a religious item if the display of the item complies with the association's dedicatory instruments consistent with the bill's limitations on such instruments. The bill requires the applicable association to notify owners and residents that approval of the display of a religious item is required for a display that is not subject to restriction on the grounds specified by the bill.

H.B. 2302 repeals provisions relating to the regulation of material, color, or alterations of door frames in the context of the display or affixing of religious items and authorizing a property owners' association to remove an item displayed in violation of a permitted restrictive covenant.

H.B. 2302 repeals Sections 202.018(c) and (d), Property Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.