86R43 AJA-F

By:  Bettencourt S.B. No. 227

A BILL TO BE ENTITLED

AN ACT

relating to regulation by a property owners' association of certain religious displays.

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

SECTION 1.  Section 202.018, Property Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(a)  Except as otherwise provided by this section, a property owners' association may not enforce or adopt a provision in a dedicatory instrument, including a restrictive covenant, that prohibits a property owner or resident from displaying or affixing on the [~~entry to the~~] owner's or resident's property or dwelling one or more religious items the display of which is motivated by the owner's or resident's sincere religious belief.

(b)  This section does not prohibit the enforcement or adoption of a provision in a dedicatory instrument, including a restrictive covenant, that, to the extent allowed by the constitution of this state and the United States, prohibits the display or affixing of a religious item on the [~~entry to the~~] owner's or resident's property or dwelling that:

(1)  threatens the public health or safety;

(2)  violates a law other than a law prohibiting the display of religious speech;

(3)  contains language, graphics, or any display that is patently offensive to a passerby for reasons other than its religious content; or

(4)  is installed on property:

(A)  owned or maintained by the property owners' association; or

(B)  owned in common by members of the property owners' association [~~in a location other than the entry door or door frame or extends past the outer edge of the door frame of the owner's or resident's dwelling; or~~

[~~(5)  individually or in combination with each other religious item displayed or affixed on the entry door or door frame has a total size of greater than 25 square inches~~].

(b-1)  Except as provided by Subsection (b-3), a property owners' association may enforce a provision of a dedicatory instrument, including a restrictive covenant, that prohibits:

(1)  the display of a religious item for more than 30 days if the item:

(A)  contains roofing material, siding, paving materials, one or more balloons or lights, or any other similar building component;

(B)  is attached in any way to a traffic control device, a light, a trailer, a vehicle, or any other existing structure or object;

(C)  includes the painting of architectural surfaces;

(D)  is a display that contains:

(i)  more than two components; or

(ii)  a component that is larger than three feet by three feet by two feet;

(E)  violates any applicable building line, right-of-way, setback, or easement;

(F)  is accompanied by music, sounds, lights, reflective material, or streamers or is otherwise distracting to motorists;

(G)  is not maintained as provided by law or a dedicatory instrument; or

(H)  is installed without prior approval of the property owners' association or the association's architectural control committee, as applicable, if:

(i)  the approval of the association or committee is otherwise required by a dedicatory instrument; and

(ii)  the association or committee provides decisions on prior approval requests within a reasonable period or within a period specified in a dedicatory instrument; or

(2)  the display of a religious item that is subject to restriction under Subdivision (1) for a religious event or holiday:

(A)  earlier than the 30th day before the date on which the religious event or holiday begins; or

(B)  later than the 14th day after the date on which the religious event or holiday ends.

(b-2)  If prior approval of a display is required, a property owners' association or the association's architectural control committee, as applicable, shall 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 Subsections (b) and (b-1)(1). The association shall notify owners and residents that approval of the display of a religious item is required for a display that is not subject to restriction under Subsection (b) or Subsections (b-1)(1)(A) through (G).

(b-3)  Subsection (b-1) is not a basis to prohibit an owner or resident from affixing on the entry door or door frame of the owner's or resident's dwelling one or more religious items the display of which is motivated by the owner's or resident's sincere religious belief if the items:

(1)  do not extend past the outer edge of the door frame of the dwelling; and

(2)  individually or in combination with each other do not exceed 25 square inches.

SECTION 2.  Sections 202.018(c) and (d), Property Code, are repealed.

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, 2019.