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H.B. No. 2439

Substitute the following for H.B. No. 2439:

By: Springer

C.S.H.B. No. 2439

A BILL TO BE ENTITLED

AN ACT

relating to certain regulations adopted by governmental entities for the building products, materials, or methods used in the construction or renovation of residential or commercial buildings.

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

SECTION 1. Title 10, Government Code, is amended by adding Subtitle Z to read as follows:

SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN

GOVERNMENTAL ACTIONS

CHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND

COMMERCIAL CONSTRUCTION

Sec. 3000.001. DEFINITIONS. In this chapter:

(1) "National model code" has the meaning assigned by Section 214.217, Local Government Code.

(2) "Governmental entity" has the meaning assigned by Section 2007.002.

Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING PRODUCTS, MATERIALS, OR METHODS PROHIBITED. (a) Notwithstanding any other law and except as provided by Subsection (d), a governmental entity may not adopt or enforce a rule, charter provision, ordinance, order, building code, or other regulation that:

(1) prohibits or limits, directly or indirectly, the use or installation of a building product or material in the

1 construction, renovation, maintenance, or other alteration of a
2 residential or commercial building if the building product or
3 material is approved for use by a national model code published
4 within the last three code cycles that applies to the construction,
5 renovation, maintenance, or other alteration of the building; or

6 (2) establishes a standard for a building product,
7 material, or aesthetic method in construction, renovation,
8 maintenance, or other alteration of a residential or commercial
9 building if the standard is more stringent than a standard for the
10 product, material, or aesthetic method under a national model code
11 published within the last three code cycles that applies to the
12 construction, renovation, maintenance, or other alteration of the
13 building.

14 (b) A governmental entity that adopts a building code
15 governing the construction, renovation, maintenance, or other
16 alteration of a residential or commercial building may amend a
17 provision of the building code to conform to local concerns if the
18 amendment does not conflict with Subsection (a).

19 (c) This section does not apply to:

20 (1) a program established by a state agency that
21 requires particular standards, incentives, or financing
22 arrangements in order to comply with requirements of a state or
23 federal funding source or housing program;

24 (2) a requirement for a building necessary to consider
25 the building eligible for windstorm and hail insurance coverage
26 under Chapter 2210, Insurance Code;

27 (3) a building located in a place or area designated

1 for its historical, cultural, or architectural importance and
2 significance that a municipality may regulate under Section
3 211.003(b), Local Government Code, if the municipality:

4 (A) is a certified local government under the
5 National Historic Preservation Act (54 U.S.C. Section 300101 et
6 seq.); or

7 (B) has an applicable landmark ordinance that
8 meets the requirements under the certified local government program
9 as determined by the Texas Historical Commission;

10 (4) a building located in a place or area designated
11 for its historical, cultural, or architectural importance and
12 significance by a governmental entity, if designated before April
13 1, 2019;

14 (5) a building located in an area designated as a
15 historic district on the National Register of Historic Places;

16 (6) a building designated as a Recorded Texas Historic
17 Landmark;

18 (7) a building designated as a State Archeological
19 Landmark or State Antiquities Landmark;

20 (8) a building listed on the National Register of
21 Historic Places or designated as a landmark by a governmental
22 entity;

23 (9) a building located in a World Heritage Buffer
24 Zone; and

25 (10) a building located in an area designated for
26 development, restoration, or preservation in a main street city
27 under the main street program established under Section 442.014.

1 (d) A municipality that is not a certified local government
2 under the National Historic Preservation Act (54 U.S.C. 300101 et
3 seq.) may adopt or enforce a regulation described by Subsection (a)
4 that applies to a building located in a place or area designated on
5 or after April 1, 2019, by a municipality for its historical,
6 cultural, or architectural importance and significance, if the
7 municipality has the voluntary consent from the building owner.

8 (e) A rule, charter provision, ordinance, order, building
9 code, or other regulation adopted by a governmental entity that
10 conflicts with this section is void.

11 Sec. 3000.003. INJUNCTION. (a) The attorney general or an
12 aggrieved party may file an action in district court to enjoin a
13 violation or threatened violation of Section 3000.002.

14 (b) The court may grant appropriate relief.

15 (c) The attorney general may recover reasonable attorney's
16 fees and costs incurred in bringing an action under this section.

17 (d) Sovereign and governmental immunity to suit is waived
18 and abolished only to the extent necessary to enforce this chapter.

19 Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter
20 does not affect provisions regarding the installation of a fire
21 sprinkler protection system under Section [1301.551\(i\)](#), Occupations
22 Code, or Section [775.045\(a\)\(1\)](#), Health and Safety Code.

23 Sec. 3000.005. SEVERABILITY. If any provision of a rule,
24 charter provision, ordinance, order, building code, or other
25 regulation described by Section 3000.002(a) is held invalid under
26 this chapter, the invalidity does not affect other provisions or
27 applications of the rule, charter provision, ordinance, order,

1 building code, or other regulation that can be given effect without
2 the invalid provision or application, and to this end the
3 provisions of the rule, charter provision, ordinance, order,
4 building code, or other regulation are severable.

5 SECTION 2. This Act takes effect September 1, 2019.