

By: Menéndez

S.B. No. 39

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 of residential or commercial buildings.

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

SECTION 1. Section 3000.002(c), Government Code, is amended to read as follows:

(c) This section does not apply to:

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

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

(3) an ordinance or other regulation that regulates outdoor lighting that is adopted for the purpose of reducing light pollution and that:

(A) is adopted by a governmental entity that is certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places Program;

(B) is adopted by a governmental entity that has adopted a resolution stating the entity's intent to become certified as a Dark Sky Community by the International Dark-Sky

1 Association as part of the International Dark Sky Places Program  
2 and does not regulate outdoor lighting in a manner that is more  
3 restrictive than the prohibitions or limitations required to become  
4 certified as a Dark Sky Community; or

5 (C) applies to outdoor lighting within five miles  
6 of the boundary of a military base in which an active training  
7 program is conducted;

8 (4) an ordinance or order that:

9 (A) regulates outdoor lighting; and

10 (B) is adopted under Subchapter B, Chapter 229,  
11 Local Government Code, or Subchapter B, Chapter 240, Local  
12 Government Code;

13 (5) a building located in a place or area designated  
14 for its historical, cultural, or architectural importance and  
15 significance that a municipality may regulate under Section  
16 211.003(b), Local Government Code, if the municipality:

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

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

23 (6) a building located in a place or area designated  
24 for its historical, cultural, or architectural importance and  
25 significance by a governmental entity, if designated before April  
26 1, 2019;

27 (7) a building located in an area designated as a

1 historic district on the National Register of Historic Places;

2 (8) a building designated as a Recorded Texas Historic  
3 Landmark;

4 (9) a building designated as a State Archeological  
5 Landmark or State Antiquities Landmark;

6 (10) a building listed on the National Register of  
7 Historic Places or designated as a landmark by a governmental  
8 entity;

9 (11) a building located in a World Heritage Buffer  
10 Zone;

11 (12) a building located in an area designated for  
12 development, restoration, or preservation in a main street city  
13 under the main street program established under Section [442.014](#);

14 (13) a standard for a plumbing product required by an  
15 ordinance or other regulation implementing a water conservation  
16 plan or program described by Section [11.1271](#) or [13.146](#), Water Code;  
17 [~~and~~]

18 (14) a standard for a plumbing product imposed by the  
19 Texas Water Development Board as a condition of applying for or  
20 receiving financial assistance under a program administered by the  
21 board;

22 (15) an energy code as adopted by the State Energy  
23 Conservation Office under Section [388.003](#)(a) or (b), Health and  
24 Safety Code;

25 (16) an energy and water conservation design standard  
26 established by the State Energy Conservation Office under Section  
27 [447.004](#); and

1           (17) a high-performance building standard approved by  
2 a board of regents under Section 55.115, Education Code.

3           SECTION 2. Section 388.003, Health and Safety Code, is  
4 amended by amending Subsections (a), (b), and (b-2) and adding  
5 Subsections (a-1) and (a-2) to read as follows:

6           (a) To achieve energy conservation in single-family  
7 residential construction, the energy efficiency chapter of the  
8 International Residential Code, as it existed on May 1, 2001, is  
9 adopted as the energy code in this state for single-family  
10 residential construction. On September 1, 2016, the energy  
11 efficiency chapter of the International Residential Code, as it  
12 existed on May 1, 2015, is adopted as the energy code in this state  
13 for single-family residential construction. On or after September  
14 1, 2021, the State Energy Conservation Office may adopt and  
15 substitute for that energy code the latest published edition of the  
16 energy efficiency chapter of the International Residential Code,  
17 based on written findings on the stringency of the chapter  
18 submitted by the laboratory under Subsection (b-3). The office:

19           (1) may not amend or adopt an edition under this  
20 subsection more often than once every six years; ~~and~~

21           (2) by rule shall establish an effective date for an  
22 adopted edition that is not earlier than nine months after the date  
23 of adoption; and

24           (3) may amend an adopted edition.

25           (a-1) Before amending or adopting an edition of the energy  
26 efficiency chapter of the International Residential Code under  
27 Subsection (a), the State Energy Conservation Office shall conduct

1 an analysis that:

2 (1) measures the impact of the amendment or adoption  
3 on housing attainability in this state; and

4 (2) quantifies the incremental construction cost and  
5 energy use cost savings associated with construction to evaluate  
6 the cost-effectiveness of the proposed amendment or adoption.

7 (a-2) The analysis under Subsection (a-1)(2) must calculate  
8 the payback period for any required products or minimum standards  
9 or requirements that are more stringent than the energy code in  
10 effect on the date immediately before the date the amendment or  
11 adoption would take effect.

12 (b) To achieve energy conservation in all other  
13 residential, commercial, and industrial construction, the  
14 International Energy Conservation Code as it existed on May 1,  
15 2001, is adopted as the energy code for use in this state for all  
16 other residential, commercial, and industrial construction. The  
17 State Energy Conservation Office may adopt and substitute for that  
18 energy code the latest published edition of the International  
19 Energy Conservation Code, based on written findings on the  
20 stringency of the edition submitted by the laboratory under  
21 Subsection (b-3). The office:

22 (1) by rule shall establish an effective date for an  
23 adopted edition that is not earlier than nine months after the date  
24 of adoption; and

25 (2) may amend an adopted edition.

26 (b-2) The State Energy Conservation Office by rule shall  
27 establish a procedure for persons who have an interest in the

1 amendment or adoption of energy codes under Subsection (a) or (b) to  
2 have an opportunity to comment on the codes under  
3 consideration. The office shall consider persons who have an  
4 interest in adoption of those codes to include:

5 (1) commercial and residential builders, architects,  
6 and engineers;

7 (2) municipal, county, and other local government  
8 authorities;

9 (3) environmental groups; and

10 (4) manufacturers of building materials and products.

11 SECTION 3. This Act takes effect September 1, 2023.