88R13464 DRS-F

By:  Gates H.B. No. 4294

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.  Sections 3000.002(a), (c), and (d), Government Code, are amended to read as follows:

(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, require a landowner to record a restrictive covenant, or enter into an agreement that:

(1)  prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building if the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or

(2)  establishes a standard for a building product, material, or aesthetic method, including any architectural or building design requirement, in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

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

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

(4)  an ordinance or order that:

(A)  regulates outdoor lighting; and

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

(5)  an existing building or a building located in an existing development [~~a place or area~~] designated for its historical, cultural, or architectural importance and significance that a municipality may regulate under Section 211.003(b), Local Government Code, if the municipality:

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

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

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

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

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

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

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

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

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

(13)  a standard for a plumbing product required by an ordinance or other regulation implementing a water conservation plan or program described by Section 11.1271 or 13.146, Water Code; and

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

(d)  A municipality that is not a municipality described by Subsection (c)(5)(A) or (B) may adopt or enforce a regulation described by Subsection (a) that applies to an existing building or a building located in an existing development [~~a place or area~~] designated on or after April 1, 2019, by the municipality for its historical, cultural, or architectural importance and significance, if the municipality has the voluntary written consent from the building owner.

SECTION 2.  Section 3000.003(c), Government Code, is amended to read as follows:

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

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, 2023.