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H.B. No. 92

A BILL TO BE ENTITLED

AN ACT

relating to the authority of a municipality, county, or property owners' association to prohibit or regulate certain activities on residence homestead property.

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

SECTION 1. Chapter 250, Local Government Code, is amended by adding Section 250.014 to read as follows:

Sec. 250.014. ACTIVITIES ALLOWED ON RESIDENCE HOMESTEAD PROPERTY. (a) In this section, "residence homestead property" means real property that is all or part of a residence homestead, as defined by Section 11.13(j), Tax Code.

(b) Notwithstanding any other law and except as provided by this section, a municipality or county may not adopt or enforce an order, ordinance, resolution, rule, or other regulation that prohibits any of the following activities on residence homestead property:

(1) growing fruits and vegetables;

(2) raising or keeping:

(A) six or fewer chickens; or

(B) six or fewer adult rabbits; or

(3) installing for on-site use:

(A) a solar energy device, as defined by Section 11.27, Tax Code;

(B) a rainwater harvesting system; or

1 (C) a standby electric generator, as defined by
2 Section 202.019, Property Code.

3 (c) A municipality or county may impose reasonable
4 regulations on the growing of fruits and vegetables on residence
5 homestead property that do not have the effect of prohibiting the
6 growing of the fruits or vegetables in the rear yard of a residence,
7 including a requirement that the growing area be maintained in good
8 condition if visible from the street faced by the property or from
9 an adjoining lot.

10 (d) A municipality or county may impose reasonable
11 regulations on the raising or keeping of chickens or rabbits on
12 residence homestead property to control odor, noise, safety, or
13 sanitary conditions that do not have the effect of prohibiting the
14 raising or keeping of the chickens or rabbits, including:

15 (1) a limit on the number of chickens or rabbits that
16 is more than:

17 (A) the minimum number allowed by Subsection
18 (b)(2); or

19 (B) a total combined number of eight chickens and
20 rabbits, subject to the limits of Subsection (b)(2);

21 (2) a prohibition on raising or keeping a rooster;

22 (3) the minimum distance between an animal shelter and
23 a residential structure other than the animal owner's own
24 residence;

25 (4) a requirement for fencing or shelter sufficient to
26 contain the chickens or rabbits on the owner's residence homestead
27 property;

1 (5) minimum requirements for combined housing and
2 outdoor space of at least:

3 (A) 20 square feet per chicken; and

4 (B) nine square feet per rabbit;

5 (6) a requirement to address sanitary conditions in a
6 manner that prevents accumulation of animal waste in a quantity
7 sufficient to create an offensive odor or attract pests; or

8 (7) a requirement that the chickens or rabbits may
9 only be kept in the rear yard of a residence.

10 (e) This section does not apply to a condominium unit.

11 (f) An order, ordinance, resolution, rule, or other
12 regulation adopted by a municipality or county that violates this
13 section is void.

14 SECTION 2. Chapter 202, Property Code, is amended by adding
15 Section 202.024 to read as follows:

16 Sec. 202.024. ACTIVITIES ALLOWED ON RESIDENCE HOMESTEAD
17 PROPERTY. (a) In this section, "residence homestead property"
18 means real property that is all or part of a residence homestead, as
19 defined by Section 11.13(j), Tax Code.

20 (b) Notwithstanding any other law and except as provided by
21 this section, a property owners' association may not adopt or
22 enforce a restrictive covenant that prohibits any of the following
23 activities on residence homestead property:

24 (1) growing fruits and vegetables;

25 (2) raising or keeping:

26 (A) six or fewer domestic chickens; or

27 (B) six or fewer adult rabbits;

1 (3) installing for on-site use:

2 (A) a solar energy device, as defined by Section
3 11.27, Tax Code;

4 (B) a rainwater harvesting system; or

5 (C) a standby electric generator, as defined by
6 Section 202.019; or

7 (4) producing food at a cottage food production
8 operation, as defined by Section 437.001(2-b), Health and Safety
9 Code.

10 (c) A property owners' association may adopt and enforce a
11 restrictive covenant imposing reasonable requirements on the
12 growing of fruits and vegetables on residence homestead property
13 that do not have the effect of prohibiting the growing of the fruits
14 or vegetables in the rear yard of a residence, including a
15 requirement that the growing area be maintained in good condition
16 if visible from the street faced by the property or from an
17 adjoining lot.

18 (d) A property owners' association may adopt and enforce a
19 restrictive covenant imposing reasonable requirements on the
20 raising or keeping of chickens or rabbits on residence homestead
21 property to control odor, noise, safety, or sanitary conditions
22 that do not have the effect of prohibiting the raising or keeping of
23 the chickens or rabbits, including:

24 (1) a limit on the number of chickens or rabbits that
25 is more than:

26 (A) the minimum number allowed by Subsection
27 (b)(2); or

1 (B) a total combined number of eight chickens and
2 rabbits, subject to the limits of Subsection (b)(2);

3 (2) a prohibition on raising or keeping a rooster;

4 (3) the minimum distance between an animal shelter and
5 a residential structure other than the animal owner's own
6 residence;

7 (4) a requirement for fencing or shelter sufficient to
8 contain the chickens or rabbits on the owner's residence homestead
9 property;

10 (5) minimum requirements for combined housing and
11 outdoor space of at least:

12 (A) 20 square feet per chicken; and

13 (B) nine square feet per rabbit;

14 (6) a requirement to address sanitary conditions in a
15 manner that prevents accumulation of animal waste in a quantity
16 sufficient to create an offensive odor or attract pests; or

17 (7) a requirement that the chickens or rabbits may
18 only be kept in the rear yard of a residence.

19 (e) This section does not:

20 (1) restrict a property owners' association from
21 regulating the size and shielding of, or the materials used in the
22 construction of, an animal shelter that is visible from a street,
23 another lot, or a common area if the restriction does not prohibit
24 the economic installation of the animal shelter on the property
25 owner's residence homestead property; or

26 (2) require a property owners' association to permit
27 the growing of fruits or vegetables or the raising or keeping of

1 chickens or rabbits on property:

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

3 (B) owned in common by the members of the

4 property owners' association.

5 (f) This section does not apply to a condominium council of

6 owners governed by Chapter 81 or unit owners' association governed

7 by Chapter 82.

8 (g) A provision that violates this section is void.

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