

By: Gates

H.B. No. 4294

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to certain regulations adopted by governmental entities  
3 for the building products, materials, or methods used in the  
4 construction of residential or commercial buildings.

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

6 SECTION 1. Sections 3000.002(a), (c), and (d), Government  
7 Code, are amended to read as follows:

8 (a) Notwithstanding any other law and except as provided by  
9 Subsection (d), a governmental entity may not adopt or enforce a  
10 rule, charter provision, ordinance, order, building code, or other  
11 regulation, require a landowner to record a restrictive covenant,  
12 or enter into an agreement that:

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

20 (2) establishes a standard for a building product,  
21 material, or aesthetic method, including any architectural or  
22 building design requirement, in construction, renovation,  
23 maintenance, or other alteration of a residential or commercial  
24 building if the standard is more stringent than a standard for the

1 product, material, or aesthetic method under a national model code  
2 published within the last three code cycles that applies to the  
3 construction, renovation, maintenance, or other alteration of the  
4 building.

5 (c) This section does not apply to:

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

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

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

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

19 (B) is adopted by a governmental entity that has  
20 adopted a resolution stating the entity's intent to become  
21 certified as a Dark Sky Community by the International Dark-Sky  
22 Association as part of the International Dark Sky Places Program  
23 and does not regulate outdoor lighting in a manner that is more  
24 restrictive than the prohibitions or limitations required to become  
25 certified as a Dark Sky Community; or

26 (C) applies to outdoor lighting within five miles  
27 of the boundary of a military base in which an active training

1 program is conducted;

2 (4) an ordinance or order that:

3 (A) regulates outdoor lighting; and

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

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

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

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

18 (6) a building located in a place or area designated  
19 for its historical, cultural, or architectural importance and  
20 significance by a governmental entity, if designated before April  
21 1, 2019;

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

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

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

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

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

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

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

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

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

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

27           (c) The attorney general or aggrieved party may recover

1 reasonable attorney's fees and costs incurred in bringing an action  
2 under this section.

3         SECTION 3. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2023.