

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 or renovation of residential or commercial buildings.

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

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

8 SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN

9 GOVERNMENTAL ACTIONS

10 CHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND

11 COMMERCIAL CONSTRUCTION

12 Sec. 3000.001. DEFINITIONS. In this chapter:

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

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

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

23 (1) prohibits or limits, directly or indirectly, the  
24 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) an ordinance or other regulation that regulates

1 outdoor lighting that is adopted for the purpose of reducing light  
2 pollution and that:

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

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

10 (4) an ordinance or order that:

11 (A) regulates outdoor lighting; and

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

15 (5) a building located in a place or area designated  
16 for its historical, cultural, or architectural importance and  
17 significance that a municipality may regulate under Section  
18 211.003(b), Local Government Code, if the municipality:

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

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

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

1 1, 2019;

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

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

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

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

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

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

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

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

26 Sec. 3000.003. INJUNCTION. (a) The attorney general or an  
27 aggrieved party may file an action in district court to enjoin a

1 violation or threatened violation of Section 3000.002.

2 (b) The court may grant appropriate relief.

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

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

7 Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter  
8 does not affect provisions regarding the installation of a fire  
9 sprinkler protection system under Section 1301.551(i), Occupations  
10 Code, or Section 775.045(a)(1), Health and Safety Code.

11 Sec. 3000.005. SEVERABILITY. If any provision of a rule,  
12 charter provision, ordinance, order, building code, or other  
13 regulation described by Section 3000.002(a) is held invalid under  
14 this chapter, the invalidity does not affect other provisions or  
15 applications of the rule, charter provision, ordinance, order,  
16 building code, or other regulation that can be given effect without  
17 the invalid provision or application, and to this end the  
18 provisions of the rule, charter provision, ordinance, order,  
19 building code, or other regulation are severable.

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

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2439 was passed by the House on April 30, 2019, by the following vote: Yeas 124, Nays 21, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2439 on May 23, 2019, by the following vote: Yeas 133, Nays 9, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2439 was passed by the Senate, with amendments, on May 19, 2019, by the following vote: Yeas 26, Nays 5.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor