

## BILL ANALYSIS

C.S.H.B. 873  
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Business & Industry  
Committee Report (Substituted)

### BACKGROUND AND PURPOSE

The U.S. Supreme Court has strongly affirmed the importance of signs on or around the home as a means of free expression and has ruled that homeowners' associations may not prohibit homeowners from exercising their free speech rights through the placement of political signs on their windows and lawns. The public policy of this state should protect the right of individuals to express their political views from their homes by using traditional methods of communication such as lawn and window signs.

The committee substitute for House Bill No. 873 states that a homeowner's association may not prohibit a homeowner from displaying an endorsement for a political candidate in the form of a sign, poster, flag, or banner except for the protection of public health or safety or if the posting or display violates a local, state, or federal law.

### RULEMAKING AUTHORITY

It is the opinion of the Committee on Business and Industry that this bill does not grant rulemaking authority to a specific agency or department.

### ANALYSIS

C.S.H.B. No. 873 amends Chapter 202 of the Property Code, as follows:

- (a) A property owners' association may not adopt or enforce a restrictive covenant, rule, or other prohibition that prohibits a property owner from displaying on the owner's property one or more signs advertising a political candidate or ballot item for an election
  - (1) on or after the 60th day before an election to which the sign relates; or
  - (2) before the 6th day after an election
- (b) The section does not prohibit the enforcement or adoption of a covenant that
  - (1) requires a sign to be ground-mounted; or
  - (2) limits property owner to displaying one sign per candidate or ballot item
- (c) The section does not prohibit the enforcement or adoption of a covenant that prohibits a sign that
  - (1) contains roofing material, siding, paving materials, flora, one or more balloons or lights, or any other similar building, landscaping, or non-standard decorative component
  - (2) is attached to a plant material, a traffic control device, light, trailer, vehicle, or any other existing structure in any way
  - (3) includes the painting of architectural surfaces
  - (4) threatens the public health or safety
  - (5) is larger than nine square feet
  - (6) violates the law
  - (7) contains any offensive language, graphics, or any display
  - (8) is accompanied by music or other sounds or by streamers or is otherwise distracting to motorists
- (d) A property owner's association may remove a sign displayed in violation of a restrictive covenant permitted by this section

### EFFECTIVE DATE

September 1, 2005

## **COMPARISON OF ORIGINAL TO SUBSTITUTE**

This substitute modifies the original bill by specifying that the type of sign has to be a sign that advertises a political candidate or ballot item for an election and not a noncommercial sign. It also adds a time length for displaying the signs and some additional qualifications for what cannot be included with the signs, such as plant material, lights, graphic language, etc.