

1-1 By: Phelan, et al. (Senate Sponsor - Buckingham) H.B. No. 2439  
 1-2 (In the Senate - Received from the House April 30, 2019;  
 1-3 May 8, 2019, read first time and referred to Committee on Business  
 1-4 & Commerce; May 16, 2019, reported favorably by the following vote:  
 1-5 Yeas 6, Nays 1; May 16, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Nichols		X		
1-9 Campbell	X			
1-10 Creighton			X	
1-11 Menéndez	X			
1-12 Paxton	X			
1-13 Schwertner	X			
1-14 Whitmire			X	
1-15 Zaffirini	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to certain regulations adopted by governmental entities  
 1-20 for the building products, materials, or methods used in the  
 1-21 construction or renovation of residential or commercial buildings.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Title 10, Government Code, is amended by adding  
 1-24 Subtitle Z to read as follows:

1-25 SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN  
 1-26 GOVERNMENTAL ACTIONS

1-27 CHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND  
 1-28 COMMERCIAL CONSTRUCTION

1-29 Sec. 3000.001. DEFINITIONS. In this chapter:

1-30 (1) "National model code" has the meaning assigned by  
 1-31 Section 214.217, Local Government Code.

1-32 (2) "Governmental entity" has the meaning assigned by  
 1-33 Section 2007.002.

1-34 Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING  
 1-35 PRODUCTS, MATERIALS, OR METHODS PROHIBITED. (a) Notwithstanding  
 1-36 any other law and except as provided by Subsection (d), a  
 1-37 governmental entity may not adopt or enforce a rule, charter  
 1-38 provision, ordinance, order, building code, or other regulation  
 1-39 that:

1-40 (1) prohibits or limits, directly or indirectly, the  
 1-41 use or installation of a building product or material in the  
 1-42 construction, renovation, maintenance, or other alteration of a  
 1-43 residential or commercial building if the building product or  
 1-44 material is approved for use by a national model code published  
 1-45 within the last three code cycles that applies to the construction,  
 1-46 renovation, maintenance, or other alteration of the building; or

1-47 (2) establishes a standard for a building product,  
 1-48 material, or aesthetic method in construction, renovation,  
 1-49 maintenance, or other alteration of a residential or commercial  
 1-50 building if the standard is more stringent than a standard for the  
 1-51 product, material, or aesthetic method under a national model code  
 1-52 published within the last three code cycles that applies to the  
 1-53 construction, renovation, maintenance, or other alteration of the  
 1-54 building.

1-55 (b) A governmental entity that adopts a building code  
 1-56 governing the construction, renovation, maintenance, or other  
 1-57 alteration of a residential or commercial building may amend a  
 1-58 provision of the building code to conform to local concerns if the  
 1-59 amendment does not conflict with Subsection (a).

1-60 (c) This section does not apply to:

1-61 (1) a program established by a state agency that

2-1 requires particular standards, incentives, or financing  
 2-2 arrangements in order to comply with requirements of a state or  
 2-3 federal funding source or housing program;  
 2-4 (2) a requirement for a building necessary to consider  
 2-5 the building eligible for windstorm and hail insurance coverage  
 2-6 under Chapter 2210, Insurance Code;  
 2-7 (3) an ordinance or other regulation that:  
 2-8 (A) regulates outdoor lighting for the purpose of  
 2-9 reducing light pollution; and  
 2-10 (B) is adopted by a governmental entity that is  
 2-11 certified as a Dark Sky Community by the International Dark-Sky  
 2-12 Association as part of the International Dark Sky Places Program;  
 2-13 (4) an ordinance or order that:  
 2-14 (A) regulates outdoor lighting; and  
 2-15 (B) is adopted under Subchapter B, Chapter 229,  
 2-16 Local Government Code, or Subchapter B, Chapter 240, Local  
 2-17 Government Code;  
 2-18 (5) a building located in a place or area designated  
 2-19 for its historical, cultural, or architectural importance and  
 2-20 significance that a municipality may regulate under Section  
 2-21 211.003(b), Local Government Code, if the municipality:  
 2-22 (A) is a certified local government under the  
 2-23 National Historic Preservation Act (54 U.S.C. Section 300101 et  
 2-24 seq.); or  
 2-25 (B) has an applicable landmark ordinance that  
 2-26 meets the requirements under the certified local government program  
 2-27 as determined by the Texas Historical Commission;  
 2-28 (6) a building located in a place or area designated  
 2-29 for its historical, cultural, or architectural importance and  
 2-30 significance by a governmental entity, if designated before April  
 2-31 1, 2019;  
 2-32 (7) a building located in an area designated as a  
 2-33 historic district on the National Register of Historic Places;  
 2-34 (8) a building designated as a Recorded Texas Historic  
 2-35 Landmark;  
 2-36 (9) a building designated as a State Archeological  
 2-37 Landmark or State Antiquities Landmark;  
 2-38 (10) a building listed on the National Register of  
 2-39 Historic Places or designated as a landmark by a governmental  
 2-40 entity;  
 2-41 (11) a building located in a World Heritage Buffer  
 2-42 Zone; and  
 2-43 (12) a building located in an area designated for  
 2-44 development, restoration, or preservation in a main street city  
 2-45 under the main street program established under Section 442.014.  
 2-46 (d) A municipality that is not a municipality described by  
 2-47 Subsection (c)(3)(A) or (B) may adopt or enforce a regulation  
 2-48 described by Subsection (a) that applies to a building located in a  
 2-49 place or area designated on or after April 1, 2019, by the  
 2-50 municipality for its historical, cultural, or architectural  
 2-51 importance and significance, if the municipality has the voluntary  
 2-52 consent from the building owner.  
 2-53 (e) A rule, charter provision, ordinance, order, building  
 2-54 code, or other regulation adopted by a governmental entity that  
 2-55 conflicts with this section is void.  
 2-56 Sec. 3000.003. INJUNCTION. (a) The attorney general or an  
 2-57 aggrieved party may file an action in district court to enjoin a  
 2-58 violation or threatened violation of Section 3000.002.  
 2-59 (b) The court may grant appropriate relief.  
 2-60 (c) The attorney general may recover reasonable attorney's  
 2-61 fees and costs incurred in bringing an action under this section.  
 2-62 (d) Sovereign and governmental immunity to suit is waived  
 2-63 and abolished only to the extent necessary to enforce this chapter.  
 2-64 Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter  
 2-65 does not affect provisions regarding the installation of a fire  
 2-66 sprinkler protection system under Section 1301.551(i), Occupations  
 2-67 Code, or Section 775.045(a)(1), Health and Safety Code.  
 2-68 Sec. 3000.005. SEVERABILITY. If any provision of a rule,  
 2-69 charter provision, ordinance, order, building code, or other

3-1 regulation described by Section 3000.002(a) is held invalid under  
3-2 this chapter, the invalidity does not affect other provisions or  
3-3 applications of the rule, charter provision, ordinance, order,  
3-4 building code, or other regulation that can be given effect without  
3-5 the invalid provision or application, and to this end the  
3-6 provisions of the rule, charter provision, ordinance, order,  
3-7 building code, or other regulation are severable.

3-8 SECTION 2. This Act takes effect September 1, 2019.

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