

BILL ANALYSIS

S.B. 581
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

A decade ago, the Texas Legislature enacted legislation seeking to protect the rights of homeowners to display mezuzahs, which are religious scrolls that those of the Jewish faith post on their door frame. An unintended consequence of this legislation was that property owners' associations were able to force homeowners to remove any religious display that is not affixed to the homeowner's front door. Examples might include crosses, menorahs, or nativity scenes displayed in a homeowner's yard. Furthermore, these associations are currently empowered to limit the homeowner's ability to place a religious display on their doors if using a material the association has not authorized. Thus, an association can effectively prohibit any religious displays on a homeowner's front door simply by not approving any materials. Additionally, even if an association does allow certain materials for crosses or other religious displays, they can still force these displays to be removed if any passerby finds the display to be patently offensive. S.B. 581 seeks to address these issues and limit the authority of a property owners' association to regulate the display of religious items by a property owner.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 581 amends the Property Code to do the following with respect to the applicability of, and certain exceptions to, the prohibition against the enforcement or adoption by a property owners' association of a provision in a restrictive covenant that prohibits a religious item from being displayed or affixed on the entry to an owner's or resident's dwelling:

- expand the applicability of the prohibition to include a religious item displayed or affixed anywhere on the property or dwelling instead of only on the dwelling's entry;
- remove the exception regarding the total size of any items displayed or affixed;
- specify that the exception based on the display or affixing of the item being a violation of a law applies only to a violation of a law other than a law prohibiting the display of religious speech;
- specify that the exception based on the item containing language, graphics, or any display that is patently offensive to a passerby applies with respect to the offensive nature for reasons other than its religious content; and
- include the following additional exceptions:
 - the item is installed on property that is owned or maintained by the association or that is owned in common by association members;

- the displaying or affixing of the item violates any applicable building line, right-of-way, setback, or easement; or
- the item is attached to a traffic control device, street lamp, fire hydrant, or utility sign, pole, or fixture.

The bill repeals provisions relating to the authority of an owner or resident to use a material or color to make an unauthorized alteration to the owner's or resident's entry door or door frame in the context of displaying or affixing a religious item and provisions authorizing a property owners' association to remove religious items displayed in violation of a restrictive covenant.

S.B. 581 repeals Sections 202.018(c) and (d), Property Code.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.