

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: H2/21/19

A Bill

SENATE BILL 170

5 By: Senator Hester
6 By: Representative Cozart
7

For An Act To Be Entitled

9 AN ACT CONCERNING COUNTY AND MUNICIPAL REGULATION OF
10 RESIDENTIAL BUILDING DESIGN ELEMENTS; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

15 CONCERNING COUNTY AND MUNICIPAL
16 REGULATION OF RESIDENTIAL BUILDING DESIGN
17 ELEMENTS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 *SECTION 1. Arkansas Code Title 14, Chapter 17, Subchapter 2, is*
23 *amended to add an additional section to read as follows:*

24 *14-17-212. County regulation of residential building design elements*
25 *prohibited – Findings – Exceptions – Definition.*

26 *(a) The General Assembly finds that:*

27 *(1) The Fair Housing Act, 42 U.S.C. § 3601 et seq., decisions of*
28 *the United States Supreme Court, and other provisions of federal law*
29 *establish the principles and standards in this section;*

30 *(2) It is difficult and expensive for citizens to readily access*
31 *fundamental property rights protection in federal court; and*

32 *(3) This section is necessary to ensure property rights*
33 *protection is accessible and to ensure state law is consistent with federal*
34 *law.*

35 *(b) A county shall not regulate residential building design elements.*

36 *(c)(1) As used in this section, "residential building design elements"*



1 means:

2 (A) Exterior building color;

3 (B) Type or style of exterior cladding material;

4 (C) Style or materials of roof structures, roof pitches,
5 or porches;

6 (D) Exterior nonstructural architectural ornamentation;

7 (E) Location, design, placement, or architectural styling
8 of windows and doors, including garage doors and garage structures;

9 (F) The number and types of rooms;

10 (G) The interior layout of rooms; and

11 (H) The minimum square footage of a structure.

12 (2) As used in this section, "residential building design
13 elements" does not include:

14 (A) The height, bulk, orientation, or location of a
15 structure on a lot; or

16 (B) Buffering or screening used to:

17 (i) Minimize visual impacts;

18 (ii) Mitigate the impacts of light and noise; or

19 (iii) Protect the privacy of neighbors.

20 (d) This section does not apply to:

21 (1) A structure located in an area designated as a local
22 historic district under applicable state law;

23 (2) A structure located in an area designated as a historic
24 district on the National Register of Historic Places;

25 (3) A structure designated as a local, state, or national
26 historic landmark;

27 (4) A regulation created by a valid private covenant or other
28 contractual agreement among property owners relating to residential building
29 design elements, including without limitation a cooperative contractual
30 agreement between a property owner and a county;

31 (5) A regulation directly and substantially related to the
32 requirements of applicable state or federal building or safety codes;

33 (6) A regulation applied to manufactured housing in a manner
34 consistent with applicable law;

35 (7) A regulation adopted as a condition for participation in
36 the National Flood Insurance Program;

1 (8) A central business improvement district under the Central
2 Business Improvement District Act, § 14-184-101 et seq.;

3 (9) A multifamily residential structure or other nonsingle-family
4 dwelling;

5 (10) The application of a county policy, regulation, or ordinance
6 affecting residential building design elements on an existing property on or
7 before February 28, 2019, but not as to any other property thereafter;

8 (11) A county policy, regulation, or ordinance derived from the
9 county’s police power and directly related to an established immediate public
10 health or safety hazard;

11 (12) A valid exercise of express statutory authority to regulate
12 residential building design elements under § 14-95-101 et seq., concerning
13 urban service districts; or

14 (13) A policy or regulation of an overlay district, if before the
15 policy or regulation is implemented:

16 (A) Notice is provided to property owners of an overlay
17 district under § 14-56-422;

18 (B) A petition to support the policy or regulation is
19 attached with signatures of a majority of property owners in the proposed
20 overlay district; and

21 (C) The overlay district makes a determination that the
22 policy or regulation complies with the Private Property Protection Act, § 18-
23 15-1701 et seq.

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25 SECTION 2. Arkansas Code Title 14, Chapter 56, Subchapter 2, is
26 amended to add an additional section to read as follows:

27 14-56-204. Municipal regulation of residential building design
28 elements prohibited – Findings – Exceptions – Definitions.

29 (a) The General Assembly finds that:

30 (1) The Fair Housing Act, 42 U.S.C. § 3601 et seq., decisions of
31 the United States Supreme Court, and other provisions of federal law
32 establish the principles and standards in this section;

33 (2) It is difficult and expensive for citizens to readily access
34 fundamental property rights protection in federal court; and

35 (3) This section is necessary to ensure property rights
36 protection is accessible and to ensure state law is consistent with federal

1 law.

2 (b) A municipality shall not regulate residential building design
3 elements.

4 (c)(1) As used in this section, "residential building design elements"
5 means:

6 (A) Exterior building color;

7 (B) Type or style of exterior cladding material;

8 (C) Style or materials of roof structures, roof pitches,
9 or porches;

10 (D) Exterior nonstructural architectural ornamentation;

11 (E) Location, design, placement, or architectural styling
12 of windows and doors, including garage doors and garage structures;

13 (F) The number and types of rooms;

14 (G) The interior layout of rooms; and

15 (H) The minimum square footage of a structure.

16 (2) As used in this section, "residential building design
17 elements" does not include:

18 (A) The height, bulk, orientation, or location of a
19 structure on a lot; or

20 (B) Buffering or screening used to:

21 (i) Minimize visual impacts;

22 (ii) Mitigate the impacts of light and noise; or

23 (iii) Protect the privacy of neighbors.

24 (d) This section does not apply to:

25 (1) A structure located in an area designated as a local
26 historic district under applicable state law;

27 (2) A structure located in an area designated as a historic
28 district on the National Register of Historic Places;

29 (3) A structure designated as a local, state, or national
30 historic landmark;

31 (4) A regulation created by a valid private covenant or other
32 contractual agreement among property owners relating to residential building
33 design elements, including without limitation a cooperative contractual
34 agreement between a property owner and a municipality;

35 (5) A regulation directly and substantially related to the
36 requirements of applicable state or federal building or safety codes;

1 (6) A regulation applied to manufactured housing in a manner
 2 consistent with applicable law;

3 (7) A regulation adopted as a condition for participation in
 4 the National Flood Insurance Program;

5 (8) A central business improvement district under the Central
 6 Business Improvement District Act, § 14-184-101 et seq.;

7 (9) A multifamily residential structure or other nonsingle-family
 8 dwelling;

9 (10) The application of a municipal policy, regulation, or
 10 ordinance affecting residential building design elements on an existing
 11 property on or before February 28, 2019, but not as to any other property
 12 thereafter;

13 (11) A municipal policy, regulation, or ordinance derived from
 14 the municipality's police power and directly related to an established
 15 immediate public health or safety hazard;

16 (12) A valid exercise of express statutory authority to regulate
 17 residential building design elements under § 14-95-101 et seq., concerning
 18 urban service districts; or

19 (13) A policy or regulation of an overlay district, if before the
 20 policy or regulation is implemented:

21 (A) Notice is provided to property owners of an overlay
 22 district under § 14-56-422;

23 (B) A petition to support the policy or regulation is
 24 attached with signatures of a majority of property owners in the proposed
 25 overlay district; and

26 (C) The overlay district makes a determination that
 27 the policy or regulation complies with the Private Property Protection Act, §
 28 18-15-1701 et seq.

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 32 /s/Hester
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