

**Hall of the House of Representatives**  
92nd General Assembly - Regular Session, 2019  
**Amendment Form**

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Subtitle of Senate Bill No. 170

CONCERNING COUNTY AND MUNICIPAL REGULATION OF RESIDENTIAL BUILDING DESIGN  
ELEMENTS.

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**Amendment No. 1 to Senate Bill 170**

Amend Senate Bill No. 170 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code Title 14, Chapter 17, Subchapter 2, is amended to add an additional section to read as follows:

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

(a) The General Assembly finds that:

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

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

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

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

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

(A) Exterior building color;

(B) Type or style of exterior cladding material;

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

(D) Exterior nonstructural architectural ornamentation;



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

(F) The number and types of rooms;

(G) The interior layout of rooms; and

(H) The minimum square footage of a structure.

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

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

(B) Buffering or screening used to:

(i) Minimize visual impacts;

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

(iii) Protect the privacy of neighbors.

(d) This section does not apply to:

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

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

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

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

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

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

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

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

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

(10) The application of a county policy, regulation, or ordinance affecting residential building design elements on an existing property on or

before February 28, 2019, but not as to any other property thereafter;

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

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

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

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

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

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

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

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

(a) The General Assembly finds that:

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

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

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

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

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

(A) Exterior building color;

(B) Type or style of exterior cladding material;  
(C) Style or materials of roof structures, roof pitches,  
or porches;

(D) Exterior nonstructural architectural ornamentation;  
(E) Location, design, placement, or architectural styling  
of windows and doors, including garage doors and garage structures;

(F) The number and types of rooms;

(G) The interior layout of rooms; and

(H) The minimum square footage of a structure.

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

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

(B) Buffering or screening used to:

(i) Minimize visual impacts;

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

(iii) Protect the privacy of neighbors.

(d) This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Amendment was read \_\_\_\_\_  
By: Representative Cozart  
KLC/KLC - 02-11-2019 16:56:20  
KLC194

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Chief Clerk