

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

A Bill

SENATE BILL 170

5 By: Senator Hester
6 By: Representative Cozart
7

For An Act To Be Entitled

8
9 AN ACT CONCERNING COUNTY AND MUNICIPAL REGULATION OF
10 RESIDENTIAL BUILDING DESIGN ELEMENTS; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14
15 CONCERNING COUNTY AND MUNICIPAL
16 REGULATION OF RESIDENTIAL BUILDING DESIGN
17 ELEMENTS.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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 – Exceptions – Definition.

26 (a) The General Assembly finds:

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) The difficulty of and expense 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 unless:



(1) The structure is:

(A) Located in an area designated as a local historic district;

(B) Located in an area designated as a historic district on the National Register of Historic Places; or

(C) Designated as a local, state, or national historic landmark; or

(2) The regulations are:

(A) Directly and substantially related to the requirements of applicable safety codes;

(B) Applied to manufactured housing in a manner consistent with applicable law; or

(C) Adopted as a condition for participation in the National Flood Insurance Program.

(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 a central business improvement district under the Central Business Improvement District Act, § 14-184-101 et

1 seq.

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

5 14-56-204. Municipal regulation of residential building design
6 elements prohibited – Exceptions – Definitions.

7 (a) The General Assembly finds:

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

11 (2) The difficulty of and expense for citizens to readily access
12 fundamental property rights protection in federal court; and

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

16 (b) A municipality shall not regulate residential building design
17 elements unless:

18 (1) The structure is:

19 (A) Located in an area designated as a local historic
20 district;

21 (B) Located in an area designated as a historic district
22 on the National Register of Historic Places; or

23 (C) Designated as a local, state, or national historic
24 landmark; or

25 (2) The regulations are:

26 (A) Directly and substantially related to the requirements
27 of applicable safety codes;

28 (B) Applied to manufactured housing in a manner
29 consistent with applicable law; or

30 (C) Adopted as a condition for participation in the
31 National Flood Insurance Program.

32 (c) As used in this section:

33 (1)(A) "Residential building design elements" means:

34 (i) Exterior building color;

35 (ii) Type or style of exterior cladding material;

36 (iii) Style or materials of roof structures, roof

1 pitches, or porches;

2 (iv) Exterior nonstructural architectural

3 ornamentation;

4 (v) Location, design, placement, or architectural

5 styling of windows and doors, including garage doors and garage structures;

6 (vi) The number and types of rooms;

7 (vii) The interior layout of rooms; and

8 (viii) The minimum square footage of a structure.

9 (B) "Residential building design elements" does not
10 include:

11 (i) The height, bulk, orientation, or location of
12 a structure on a lot; or

13 (ii) Buffering or screening used to:

14 (a) Minimize visual impacts;

15 (b) Mitigate the impacts of light and noise;

16 or

17 (c) Protect the privacy of neighbors; and

18 (2) "Municipality" means:

19 (A) A city of the first class;

20 (B) A city of the second class; and

21 (C) An incorporated town.

22 (d) This section does not apply to a central business improvement
23 district under the Central Business Improvement District Act, § 14-184-101 et
24 seq.