

By: Zedler

H.B. No. 2535

A BILL TO BE ENTITLED

AN ACT

relating to the ownership and local regulation of trees and timber.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 6, Natural Resources Code, is amended by adding Chapter 154 to read as follows:

CHAPTER 154. OWNERSHIP AND LOCAL REGULATION OF TREES AND TIMBER

Sec. 154.001. DEFINITIONS. In this chapter:

(1) "Governmental entity" means a political subdivision of the state, including:

(A) a municipality; and

(B) a county.

(2) "Mature tree" means a tree greater than 10 inches in girth measured 4-1/2 feet above the natural grade.

(3) "Mitigation fee" means a fee assessed by a governmental entity for the removal of a tree.

(4) "Removal of a tree" means the harvesting, cutting, or destruction of a tree, including the damaging of a tree in a way that will cause the death of the tree on or before the first anniversary of the date of the damage, as determined by a governmental entity.

(5) "Replacement tree" means a tree of not less than three inches in girth measured 4-1/2 feet above the natural grade that is planted to replace a tree removed from a landowner's land.

Sec. 154.002. OWNERSHIP OF TREES AND TIMBER. A landowner

owns all trees and timber located on the landowner's land as real property until cut or otherwise removed from the land, unless otherwise provided by a contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document.

Sec. 154.003. LOCAL REGULATION OF TREES AND TIMBER. (a) A governmental entity may not prohibit a landowner from trimming or removing trees or timber located on the landowner's land.

(b) A governmental entity may, if authorized by other state law and subject to the limitations of that law, assess a mitigation fee against a landowner for the removal of a mature tree on the landowner's land. A mitigation fee:

(1) must be proportional to the value of the mature tree removed;

(2) may not exceed \$100 per inch of girth of the mature tree removed measured at 4-1/2 feet above the natural grade; and

(3) may be used only in the jurisdiction in which the fee is collected and only for the purpose of tree planting and other related activities.

(c) A landowner is entitled to plant a replacement tree at the landowner's expense instead of paying a mitigation fee. A landowner who chooses to plant a replacement tree is not required to plant a number of replacement trees whose total girth is greater than the total girth of all the mature trees to which the mitigation fee would have applied.

(d) Notwithstanding any other law, a municipality may not regulate the trimming or removal of trees or timber in the extraterritorial jurisdiction of the municipality.

1 (e) Subsection (d) does not apply to a municipality whose
2 extraterritorial jurisdiction is adjacent to or includes all or
3 part of a federal military base in active use as of September 1,
4 2017.

5 (f) This section does not affect the authority of a county
6 to regulate the cutting of trees under Section 240.909, Local
7 Government Code.

8 (g) This section does not apply to the facilities or
9 operations of an electric utility or a transmission and
10 distribution utility, as those terms are defined by Section 31.002,
11 Utilities Code.

12 Sec. 154.004. APPLICABILITY TO TREE TRIMMING OR REMOVAL IN
13 UTILITY RIGHT-OF-WAY. This chapter does not apply to the trimming
14 or removal of a tree in the easement or right-of-way of a pipeline
15 or utility line.

16 SECTION 2. This Act takes effect September 1, 2017.