

1-1 By: A. Johnson of Harris (Senate Sponsor - Huffman) H.B. No. 2274
 1-2 (In the Senate - Received from the House May 10, 2021;
 1-3 May 12, 2021, read first time and referred to Committee on Business
 1-4 & Commerce; May 21, 2021, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 May 21, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2274 By: Hancock

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the extension or amendment of deed restrictions in
 1-22 certain older subdivisions.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Title 11, Property Code, is amended by adding
 1-25 Chapter 216 to read as follows:

1-26 CHAPTER 216. EXTENSION OR AMENDMENT OF RESTRICTIONS IN CERTAIN
 1-27 OLDER SUBDIVISIONS

1-28 Sec. 216.001. DEFINITIONS. In this chapter:

1-29 (1) "Dedicatory instrument" has the meaning assigned
 1-30 by Section 202.001.

1-31 (2) "Lienholder" and "owner" have the meanings
 1-32 assigned by Section 201.003.

1-33 (3) "Older subdivision" means a subdivision described
 1-34 by a recorded map or plat filed before 1947 in the real property
 1-35 records of the county in which the subdivision is located.

1-36 (4) "Petition" has the meaning assigned by Section
 1-37 202.001.

1-38 (5) "Property owners' association" means an
 1-39 incorporated or unincorporated homeowners' association, community
 1-40 association, civic club, or similar entity that:

1-41 (A) has a membership primarily consisting of the
 1-42 owners of real property in a subdivision; and

1-43 (B) supports the enforcement of or promotes the
 1-44 observance of the deed restrictions applicable to all or part of the
 1-45 property located in the subdivision.

1-46 (6) "Restrictions" has the meaning assigned by Section
 1-47 209.002.

1-48 (7) "Subdivision" means land that:

1-49 (A) consists of multiple sections that have each
 1-50 been divided into two or more parts on a map or plat that has been
 1-51 recorded in the real property records of a county; and

1-52 (B) is or was subject to restrictions that:

1-53 (i) limit a majority of the land, excluding
 1-54 streets and public areas, to residential use; and

1-55 (ii) were recorded in the real property
 1-56 records of the county.

1-57 Sec. 216.002. FINDINGS AND PURPOSE. (a) The legislature
 1-58 finds that:

1-59 (1) the inability of owners to extend or amend
 1-60 property restrictions in older subdivisions in which no zoning

2-1 regulations apply creates uncertainty in living conditions and
2-2 discourages investments in those subdivisions;
2-3 (2) owners in affected older subdivisions are
2-4 reluctant or unable to provide proper maintenance, upkeep, and
2-5 repairs of structures because of the inability to amend the
2-6 restrictions in response to changing circumstances;
2-7 (3) these conditions will cause dilapidation of
2-8 housing and other structures and cause unhealthful and unsanitary
2-9 conditions in affected older subdivisions, contrary to the health,
2-10 safety, and welfare of the public; and
2-11 (4) the existence of race-related covenants in
2-12 restrictions, regardless of their unenforceability, is offensive,
2-13 repugnant, and harmful to members of racial or ethnic minority
2-14 groups and public policy requires that those covenants be removed.
2-15 (b) The purpose of this chapter is to provide a procedure
2-16 for extending or amending restrictions for certain older
2-17 subdivisions, including the removal of any restriction relating to
2-18 race, religion, or national origin that is void and unenforceable
2-19 under the United States Constitution or Section 5.026.
2-20 Sec. 216.003. APPLICABILITY OF CHAPTER. (a) This chapter
2-21 applies only to an older subdivision that:
2-22 (1) is wholly or partly located in a municipality with
2-23 a population of two million or more;
2-24 (2) had original restrictions that:
2-25 (A) did not have an express procedure that
2-26 provides for successive extensions of the restrictions;
2-27 (B) did not have an express procedure for
2-28 amending the restrictions;
2-29 (C) could not be amended without the unanimous
2-30 consent of:
2-31 (i) all owners in the subdivision; or
2-32 (ii) all owners in any section of the
2-33 subdivision; or
2-34 (D) may no longer be valid due to an inability to
2-35 extend or amend the restrictions; and
2-36 (3) has a single property owners' association in which
2-37 all owners in the subdivision are eligible for membership but in
2-38 which membership is not mandatory.
2-39 (b) This chapter applies to a restriction regardless of the
2-40 date on which the restriction was created.
2-41 (c) This chapter supersedes any contrary requirement for
2-42 the extension or amendment of a restriction in a dedicatory
2-43 instrument of a subdivision to which this chapter applies.
2-44 (d) This chapter does not apply to:
2-45 (1) a residential subdivision described by Section
2-46 209.0041(b); or
2-47 (2) a condominium, as defined by Section 81.002 or
2-48 82.003.
2-49 Sec. 216.004. AMENDMENT OF RESTRICTIONS. (a) For purposes
2-50 of this chapter, the amendment of restrictions includes the
2-51 adoption of new restrictions or the modification or removal of
2-52 existing restrictions.
2-53 (b) An amendment of restrictions under this chapter may not
2-54 create a property owners' association with mandatory membership.
2-55 An amendment of restrictions under this chapter that creates a
2-56 property owners' association with mandatory membership is void.
2-57 Sec. 216.005. PROPERTY OWNERS' ASSOCIATION ACTION NOT
2-58 REQUIRED. Except as provided by Section 216.008, restrictions may
2-59 be extended or amended under this chapter without action by the
2-60 property owners' association.
2-61 Sec. 216.006. EXTENSION OF RESTRICTIONS. (a) Restrictions
2-62 may be extended as provided by Section 216.007 or, if a dedicatory
2-63 instrument provides a procedure for an initial extension of the
2-64 original restrictions, that procedure may be used for successive
2-65 extensions of the original restrictions unless the dedicatory
2-66 instrument expressly prohibits the procedure from being used for
2-67 successive extensions. If the dedicatory instrument prohibits the
2-68 procedure from being used to provide for automatic extension of
2-69 restrictions, the procedure may not be used under this subsection

3-1 to provide for automatic extension of the restrictions.
3-2 (b) A provision in a dedicatory instrument that prohibits
3-3 the extension of an existing restriction during a certain period
3-4 does not apply to a successive extension under a procedure for
3-5 initial extension of original restrictions under Subsection (a).
3-6 (c) An extension of restrictions under this chapter may:
3-7 (1) be for a period equal to the original term of the
3-8 restrictions or a shorter period; and
3-9 (2) subject to Subsection (a), provide for additional
3-10 automatic extensions of the term of the restrictions for a period of
3-11 not more than 10 years for each extension.
3-12 (d) A dedicatory instrument that provides for the extension
3-13 of restrictions and does not provide for amendment of restrictions
3-14 may be amended under this chapter, including by amending the
3-15 provision providing for the extension of the restrictions.
3-16 Sec. 216.007. CONSENT REQUIRED FOR EXTENSION OR AMENDMENT
3-17 OF RESTRICTIONS. (a) A restriction may be extended or amended by a
3-18 petition or ballots that indicate the written consent of the owners
3-19 of at least 66.6 percent of the total number of separately owned
3-20 parcels or tracts in the subdivision, regardless of whether the
3-21 parcels or tracts contain part or all of one or more platted lots or
3-22 combination of lots.
3-23 (b) A restriction that is extended or amended as described
3-24 by Subsection (a) applies to all sections of the subdivision,
3-25 including any annex, to the extent that the extended or amended
3-26 restriction expressly applies to the entire subdivision,
3-27 regardless of whether:
3-28 (1) each section has separate restrictions; or
3-29 (2) each owner is a member of the property owners'
3-30 association.
3-31 (c) If the original restrictions for a subdivision contain a
3-32 lower percentage to extend or amend the restrictions, the
3-33 percentage in the original restrictions controls.
3-34 Sec. 216.008. PETITION OR BALLOTS. (a) After receiving
3-35 written approval of a petition or ballot by the property owners'
3-36 association, the petition or ballots for the extension or amendment
3-37 of restrictions must be distributed to the owners in the
3-38 subdivision by any public method, including:
3-39 (1) by United States mail;
3-40 (2) by electronic mail or other method of electronic
3-41 transmission or publication, including publication on an Internet
3-42 website;
3-43 (3) by door-to-door circulation;
3-44 (4) by publication in a newspaper or similar
3-45 publication of general circulation in the municipality in which the
3-46 subdivision is located; or
3-47 (5) at a meeting of the owners in the subdivision
3-48 called for the purpose of voting on the proposed extension or
3-49 amendment.
3-50 (b) The petition or ballots may be provided to owners in
3-51 separate documents. The separate documents are considered to be
3-52 one instrument.
3-53 (c) If a restriction is amended under this chapter, a
3-54 petition or ballot for a subsequent amendment of the restrictions
3-55 may not be distributed under Subsection (a) before the fifth
3-56 anniversary of the effective date of the amended restriction under
3-57 Section 216.010.
3-58 Sec. 216.009. EFFECT OF OWNER'S SIGNATURE. (a) An owner's
3-59 signature on a petition or ballot conclusively establishes the
3-60 owner's consent for the purposes of this chapter.
3-61 (b) The vote of multiple owners of a lot, parcel, or tract
3-62 may be reflected by the signature of one of the owners.
3-63 (c) After an owner signs a petition or ballot for an
3-64 extension or amendment of a restriction, the owner's subsequent
3-65 conveyance of the owner's interest in real property in the
3-66 subdivision covered by the extension or amendment does not affect
3-67 the validity of the signature for the purposes of the petition or
3-68 ballot.
3-69 Sec. 216.010. EFFECTIVE DATE OF EXTENSION OR AMENDMENT. An

4-1 extension or amendment of a restriction under this chapter takes
4-2 effect on the date the extension or amendment and the petition or
4-3 ballots that reflect the written consent of the required number of
4-4 owners in the subdivision for the adoption of the extension or
4-5 amendment are filed and recorded in the real property records of the
4-6 county in which the subdivision is located.

4-7 Sec. 216.011. APPLICABILITY OF EXTENSION OR AMENDMENT. (a)
4-8 An extension or amendment of a restriction under this chapter is
4-9 binding on a lot, parcel, or tract in the subdivision as provided by
4-10 the restriction, regardless of whether the owner or owners of the
4-11 lot, parcel, or tract consented to the extension or amendment.

4-12 (b) Notwithstanding any other law, an owner may not opt out
4-13 of the applicability to the owner's property of a restriction that
4-14 is extended or amended under this chapter.

4-15 (c) An extension or amendment of a restriction under this
4-16 chapter is binding on a lienholder or a person who acquires title to
4-17 property at a foreclosure sale or by deed from a foreclosing
4-18 lienholder.

4-19 Sec. 216.012. UNCONSTITUTIONAL RESTRICTIONS NOT EXTENDED.
4-20 If a provision in restrictions extended under this chapter is void
4-21 and unenforceable under the United States Constitution or Section
4-22 5.026, the restrictions are considered as if the void and
4-23 unenforceable provision was never contained in the restrictions.

4-24 Sec. 216.013. PROCEDURES CUMULATIVE. The procedure
4-25 provided by this chapter for the extension or amendment of
4-26 restrictions is cumulative of and not in lieu of any other method by
4-27 which restrictions of a subdivision to which this chapter applies
4-28 may be extended or amended.

4-29 Sec. 216.014. CONSTRUCTION OF CHAPTER AND RESTRICTIONS.
4-30 (a) This chapter and any petition or ballot made or action taken in
4-31 connection with an attempt to comply with this chapter shall be
4-32 liberally construed to effectuate the intent of this chapter and
4-33 the petition, ballot, or action.

4-34 (b) A restriction that is extended or amended under this
4-35 chapter shall be liberally construed to give effect to the
4-36 restriction's purposes and intent.

4-37 SECTION 2. This Act takes effect immediately if it receives
4-38 a vote of two-thirds of all the members elected to each house, as
4-39 provided by Section 39, Article III, Texas Constitution. If this
4-40 Act does not receive the vote necessary for immediate effect, this
4-41 Act takes effect September 1, 2021.

4-42 * * * * *