

By: Burns

H.B. No. 1786

A BILL TO BE ENTITLED

AN ACT

relating to notice to property owners of the adoption or amendment of certain restrictive covenants.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.0045 to read as follows:

Sec. 202.0045. NOTICE OF NEW OR AMENDED RESTRICTIVE COVENANT; CERTIFICATE OF COMPLIANCE. (a) A property owners' association may not enforce a newly adopted restrictive covenant or an amendment to a restrictive covenant before the 60th day after the date the association gives notice of the adoption or amendment directed to all persons who then are record owners of property in the residential subdivision, planned unit development, condominium or townhouse regime, or similar planned development. The notice must contain the name of the subdivision, regime, or development covered by the restrictive covenant and a copy of the dedicatory instrument containing the restrictive covenant as it will be filed under Section 202.006.

(b) Except as provided by Subsection (d), the notice required by Subsection (a) must be:

(1) published once a week for two consecutive weeks in a newspaper of general circulation in the county or counties where the subdivision, regime, or development is located; and

(2) sent by certified mail, return receipt requested,

1 to each person who owns land in the subdivision, regime, or  
2 development as of the date the notice is given, excluding the owners  
3 of land dedicated for public use or for use by utilities.

4 (c) If the property owners' association acts in good faith  
5 in determining ownership and giving notice as required by this  
6 section, the failure to give personal notice to an owner does not  
7 affect the enforceability of the restrictive covenant as to that  
8 owner or the owner's property.

9 (d) Instead of providing a copy of the dedicatory instrument  
10 as it will be filed under Section 202.006 as required by Subsection  
11 (a), a notice published as required by Subsection (b)(1) may  
12 contain a general description of the purpose and effect of the newly  
13 adopted restrictive covenant or the amendment to the restrictive  
14 covenant, as applicable.

15 (e) On compliance with the notice requirements of this  
16 section, a majority of the members of the governing body of the  
17 property owners' association shall execute a certificate of  
18 compliance and file the certificate with the county clerk of each  
19 county where the subdivision, regime, or development is located.

20 (f) The county clerk of each county shall record the  
21 certificate in the real property records of the county.

22 SECTION 2. Section 209.0042(b), Property Code, is amended  
23 to read as follows:

24 (b) A property owners' association may use an alternative  
25 method of providing notice adopted under this section to provide a  
26 notice for which another method is prescribed by law, other than a  
27 notice required by Section 202.0045, only if the property owner to

1 whom the notice is provided has affirmatively opted to allow the  
2 association to use the alternative method of providing notice to  
3 provide to the owner notices for which another method is prescribed  
4 by law.

5 SECTION 3. Section 202.0045, Property Code, as added by  
6 this Act, applies only to a restrictive covenant adopted or amended  
7 on or after the effective date of this Act.

8 SECTION 4. This Act takes effect September 1, 2023.