

By: Berman

H.B. No. 468

A BILL TO BE ENTITLED

AN ACT

relating to the extension, reinstatement, or modification of or addition to residential restrictive covenants.

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

SECTION 1. Title 11, Property Code, is amended by adding Chapter 210 to read as follows:

CHAPTER 210. EXTENSION, REINSTATEMENT, OR MODIFICATION OF OR
ADDITION TO RESIDENTIAL RESTRICTIVE COVENANTS

Sec. 210.001. DEFINITIONS. In this chapter:

(1) "Dedictory instrument" has the meaning assigned by Section 202.001.

(2) "Owner" has the meaning assigned by Section 201.003.

(3) "Property owners' association" has the meaning assigned by Section 202.001.

(4) "Residential real estate subdivision" or "subdivision" has the meaning assigned by Section 201.003.

(5) "Restrictions" has the meaning assigned by Section 201.003.

Sec. 210.002. APPLICABILITY OF CHAPTER. This chapter applies to all residential real estate subdivisions in this state except subdivisions governed by Chapter 201 or 204.

Sec. 210.003. FINDINGS AND PURPOSE. (a) The legislature finds that:

1 (1) the pending expiration of, and the inability of
2 owners to extend, reinstate, modify or add to, property
3 restrictions applicable to certain real estate subdivisions in this
4 state creates uncertainty in living conditions and discourages
5 investments in those subdivisions;

6 (2) owners of land in affected subdivisions are
7 reluctant or unable to provide proper maintenance, upkeep, and
8 repairs of structures because of the pending expiration of
9 restrictions;

10 (3) financial institutions cannot or will not lend
11 money for investments, maintenance, upkeep, or repairs in affected
12 subdivisions;

13 (4) these conditions cause dilapidation of housing and
14 other structures and cause unhealthful and unsanitary conditions in
15 affected subdivisions, contrary to the health, safety, and welfare
16 of the public; and

17 (5) the existence of race-related covenants in
18 restrictions, regardless of their unenforceability, is offensive,
19 repugnant, and harmful to members of racial or ethnic minority
20 groups and public policy requires that those covenants be removed.

21 (b) The purpose of this chapter is to provide a procedure
22 for extending, reinstating, modifying, or adding to residential
23 restrictions and to provide for the removal of any restriction or
24 other provision relating to race, religion, or national origin that
25 is void and unenforceable under either the United States
26 Constitution or Section 5.026.

27 Sec. 210.004. EXTENSION, REINSTATEMENT, OR MODIFICATION OF

1 OR ADDITION TO RESTRICTIONS. (a) A property owners' association,
2 or a petition committee comprised of at least three owners, may
3 circulate a petition proposing to extend, reinstate, modify, or add
4 to existing restrictions.

5 (b) A vote on a proposal may be taken by petition, at a
6 meeting, or by a combination of both methods, as determined by the
7 property owners' association or petition committee.

8 (c) An extension, reinstatement, or modification of or an
9 addition to existing restrictions that is approved by the owners
10 becomes effective when the resolution required by Section 210.008
11 is filed as a dedicatory instrument with the county clerk of each
12 county in which the subdivision is located.

13 (d) An extension, reinstatement, or modification of or
14 addition to existing restrictions that is approved by the owners is
15 binding on all properties in the subdivision.

16 Sec. 210.005. PETITION PROCEDURE. (a) The property
17 owners' association or petition committee shall deliver to each
18 record owner of property in the subdivision a petition describing
19 the exact terms of the proposed extension, reinstatement, or
20 modification of or addition to the existing restrictions.

21 (b) If the vote will be taken by petition, the petition must
22 state the date by which a response must be received in order to be
23 counted. If the vote will be taken at a meeting, the petition must
24 state the date, time, and location of the meeting.

25 (c) The petition may allow each owner to indicate approval
26 or disapproval of:

27 (1) the entire proposal; or

1 (2) specific provisions of the proposal.

2 (d) Separate signature pages may be circulated if the
3 proposed extension, reinstatement, modification, or addition is
4 stated fully or referenced on each signature page. A reference may
5 be made by the following or substantially similar wording: "We the
6 undersigned owners of property in the _____ Subdivision
7 indicate by our signatures on this document our approval or
8 disapproval of the proposal(s) circulated by _____ on or about
9 [date] to [extend, reinstate, modify, or add to] our restrictive
10 covenants. We acknowledge that we have fully reviewed the
11 proposal(s)."

12 (e) The petition may be hand-delivered to a residence in the
13 subdivision or sent by regular mail to the owner's last known
14 mailing address as reflected in the ownership records maintained by
15 the property owners' association.

16 (f) The signature of an owner on the petition or an owner's
17 appearance at a meeting to vote on the proposal conclusively
18 establishes that the owner received the petition.

19 Sec. 210.006. VOTE ON PROPOSAL. (a) If the petition allows
20 owners to indicate only approval or disapproval of the entire
21 proposal, the proposal is adopted if owners of at least 60 percent
22 of the real property in the subdivision vote in favor of the
23 proposal. If the petition allows owners to indicate approval or
24 disapproval of specific provisions of the proposal, a provision is
25 adopted if owners of at least 60 percent of the real property in the
26 subdivision vote in favor of the provision.

27 (b) The property owners' association or petition committee

1 shall exclude votes by lienholders, contract purchasers, and owners
2 of mineral interests.

3 (c) The approval or disapproval of multiple owners of a
4 property may be reflected by the signature or vote of a single
5 co-owner.

6 (d) An owner is considered to have cast a vote if the owner:

7 (1) signs the petition indicating approval or
8 disapproval of the proposal or one or more specific provisions of
9 the proposal; or

10 (2) appears at the meeting and votes for or against the
11 proposal or specific provisions of the proposal.

12 (e) The property owners' association or petition committee
13 may only count a vote cast by petition if the association or
14 committee receives the vote before the deadline stated in the
15 petition.

16 (f) An owner may not vote by proxy.

17 Sec. 210.007. SUBDIVISION CONSISTING OF MULTIPLE SECTIONS.

18 If a subdivision consisting of multiple sections, each with its own
19 restrictions, is represented by a single property owners'
20 association, a proposal or specific provision of a proposal is
21 adopted if owners of a least 60 percent of the total number of
22 properties in the subdivision vote in favor of the proposal or
23 provision.

24 Sec. 210.008. RESOLUTION CERTIFYING RESULTS OF VOTE. (a)

25 The property owners' association or petition committee shall
26 certify the results of a vote under this chapter by a written
27 resolution specifying the number of votes for and against the

1 proposal, or for and against each provision of the proposal, and
2 shall also certify that the petition was delivered to each record
3 owner of property in the subdivision as required by Section
4 210.005.

5 (b) The association or committee shall attach to the
6 resolution a statement of the exact terms of the proposed
7 extension, reinstatement, or modification of or addition to the
8 existing restrictions.

9 (c) The association or committee shall make the resolution,
10 petition, and any signature pages available to any owner on
11 request.

12 Sec. 210.009. ADDITIONAL PROCEDURES. The procedures
13 provided by this chapter are in addition to any procedures provided
14 in a subdivision's restrictions for the extension, reinstatement,
15 or modification of or addition to existing restrictions. The
16 property owners' association or petition committee may propose the
17 extension, reinstatement, or modification of or addition to
18 restrictions either in accordance with the procedures provided by
19 the subdivision's restrictions or the procedures provided by this
20 chapter.

21 SECTION 2. This Act takes effect September 1, 2003.