

By: Farrar

H.B. No. 1129

A BILL TO BE ENTITLED

AN ACT

relating to enforcement of certain types of restrictions in certain municipalities.

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

SECTION 1. Section 212.132, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 212.132. DEFINITION. In this subchapter, "restriction" means a land-use regulation [~~limitation~~] that:

(1) affects the character of the use to which real property, including residential and rental property, may be put;

(2) fixes the distance that a structure must be set back from property lines, street lines, or lot lines; [~~or~~]

(3) affects the size of a lot or the size, type, and number of structures that may be built on the lot;

(4) regulates or restricts the type of activities that may take place on the property, including commercial activities, keeping of animals, use of fire, nuisance activities, vehicle storage, and parking;

(5) regulates architectural features of a structure, construction of fences, landscaping, garbage disposal, or noise levels; or

(6) specifies the type of maintenance that must be performed on a lot or structure, including maintenance of a yard or

1 fence.

2 SECTION 2. Section 212.133, Local Government Code, as  
3 redesignated by Chapter 1420, Acts of the 77th Legislature, Regular  
4 Session, 2001, is amended to read as follows:

5 Sec. 212.133. SUIT TO ENFORCE RESTRICTIONS. (a) Except as  
6 provided by Subsection (b), the [The] municipality may sue in any  
7 court of competent jurisdiction to enjoin or abate a violation of a  
8 restriction contained or incorporated by reference in a properly  
9 recorded plan, plat, or other instrument that affects a subdivision  
10 located inside the boundaries of the municipality.

11 (b) The municipality may not initiate or maintain a suit to  
12 enjoin or abate a violation of a restriction if a property owners'  
13 association with the authority to enforce the restriction files  
14 suit to enforce the restriction.

15 (c) In a suit by a property owners' association to enforce a  
16 restriction, the association may not submit into evidence or  
17 otherwise use the work product of the municipality's legal counsel.

18 SECTION 3. Section 212.133, Local Government Code, as  
19 redesignated by Chapter 1420, Acts of the 77th Legislature, Regular  
20 Session, 2001, and amended by this Act, applies only to a suit filed  
21 on or after the effective date of this Act. A suit filed before the  
22 effective date of this Act is governed by the law in effect  
23 immediately before that date, and that law is continued in effect  
24 for that purpose.

25 SECTION 4. Subchapter E, Chapter 212, Local Government  
26 Code, as redesignated by Chapter 1420, Acts of the 77th  
27 Legislature, Regular Session, 2001, is amended by adding Section

1 212.1335 to read as follows:

2 Sec. 212.1335. FORECLOSURE BY PROPERTY OWNERS ASSOCIATION.

3 (a) A municipality may not participate in a suit or other proceeding  
4 to foreclose a property owners' association's lien on real  
5 property.

6 (b) In a suit or other proceeding to foreclose a property  
7 owners' association's lien on real property in the subdivision, the  
8 association may not submit into evidence or otherwise use the work  
9 product of the municipality's legal counsel.

10 SECTION 5. Section 212.1335, Local Government Code, as  
11 added by this Act, applies only to a suit filed on or after the  
12 effective date of this Act. A suit filed before the effective date  
13 of this Act is governed by the law in effect immediately before that  
14 date, and that law is continued in effect for that purpose.

15 SECTION 6. This Act takes effect September 1, 2003.