

BILL ANALYSIS

H.B. 1631
By: Hilderbran
Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, residential subdivisions in unincorporated areas of counties with more than 65,000 people are authorized to amend or modify existing covenants and building restrictions. Residential subdivisions in unincorporated areas in counties with less than 65,000 people are unable to amend covenants and building restrictions. Only with the unanimous consent of the property owners within an unincorporated residential subdivision can they amend, change, or modify the restrictive covenants. Property owners in these counties do not have the ability to zone properties, control growth, or have building restrictions.

The purpose of H.B. 1631 is to allow residential subdivisions in unincorporated areas in counties with less than 65,000 the ability to amend or modify existing covenants, and building restrictions.

RULEMAKING AUTHORITY

It is the opinion of the committee that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency or institution.

ANALYSIS

SECTION 1. *Amends Title 11, Property Code, by adding Chapter 211 regarding Amendment and Enforcement of Restrictions in Certain Subdivisions, as follows:*

Defines "Dedictory instrument," "Lienholder," "owner," "real property records," and "restrictions," "Property owners' association," and "Residential real estate subdivision."

Makes this chapter applicable only to:

A residential real estate subdivision, unit, or parcel of a subdivision located in whole or in part within an unincorporated area of a county with a population of less than 65,000.

Restrictions that affect real property within a residential real estate subdivision or any units or parcels of the subdivision and that, under the terms of the restrictions are not subject to amendment and may not be amended without unanimous consent of all property owners in the subdivision or all property owners in a unit or parcel of the subdivision.

Makes legislative findings regarding real estate subdivisions not covered by current law.

Authorizes a property owners' association by a two-thirds vote of the governing body, to submit a procedure for amending restrictions to a vote of owners in the subdivision or in a unit or parcel of the subdivision governed by restrictions.

Requires a property owners' association to provide notice by mail containing specific information to each affected property owner not later than the 30th day before votes must be tabulated.

Requires a property owners' association to pay the costs of printing and mailing notices and ballots, and canvassing, tabulating, and certifying the vote.

Details voting requirements and duties.

Includes transition language.

SECTION 2. Effective Date.

EFFECTIVE DATE

September 1, 2005.