

BILL ANALYSIS

Senate Research Center
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S.B. 1018
By: Staples
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law requires that 75 percent of all property owners voting on a property owners' association measure of petition vote in favor of the measure for a change to a restrictive covenant to become effective. In certain homeowners' associations and property owners' associations, the governing bodies as unable to contact 75 percent of the owners, making any changes unattainable. As proposed, S.B. 1018 allows property owners associations and homeowners' associations within a defined area to modify existing restrictive covenants with 66 percent of the owners voting in favor of change.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 11, Property Code, by adding Chapter 210, as follows:

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

Sec. 210.001. DEFINITIONS. Defines "dedicatory instrument," "owner," "property owners' association," "residential real estate subdivision," and "restrictions."

Sec. 210.002. APPLICABILITY OF CHAPTER. Provides that this chapter applies to a residential real estate subdivision that is located in a county with a population of more than 45,000 and less than 175,000 other than a subdivision governed by Chapter 201 (Restrictive Covenants Applicable to Certain Subdivisions).

Sec. 210.003. FINDINGS AND PURPOSE. Sets forth the findings of the legislature relating to the purpose of this chapter. Sets forth the purpose of this chapter.

Sec. 210.004. EXTENSION, REINSTATEMENT, OR MODIFICATION OF OR ADDITION TO RESTRICTIONS. (a) Authorizes a property owners' association (association) or a petition committee (committee) comprised of at least three owners, to circulate a petition proposing to extend, reinstate, modify, or add to existing restrictions.

(b) Authorizes a vote on a proposal to be taken by petition, at a meeting, or by a combination of both methods, as determined by the association or committee.

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

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

Sec. 210.005. PETITION PROCEDURE. (a) Requires the association or committee to deliver to each record owner of property in the subdivision a petition describing the exact terms of the proposed extension, reinstatement, or modification of or addition to the existing restrictions.

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

(c) Authorizes the petition to allow each owner to indicate approval or disapproval of the entire proposal or specific provisions of the proposal.

(d) Authorizes separate signature pages to be circulated if the proposed extension, reinstatement, modification, or addition is stated fully or referenced on each signature page. Authorizes a reference to be made by a specific assertion.

(e) Authorizes the petition to be hand-delivered to a residence in the subdivision or sent by regular mail to the owner's last known mailing address as reflected in the ownership records maintained by the association.

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

Sec. 210.006. VOTE ON PROPOSAL. (a) Provides that if the petition allows owners to indicate only approval or disapproval of the entire proposal, the proposal is adopted if the owners of at least 66 percent of the real property in the subdivision vote in favor of the proposal. Provides that if the petition allows owners to indicate approval or disapproval of the specific provisions proposal, the provision is adopted if the owners of at least 66 percent of the real property in the subdivision vote in favor of the provision.

(b) Requires the association or committee to exclude votes by lienholders, contract purchasers, and owners of mineral interests.

(c) Authorizes the approval or disapproval of multiple owners of property to be reflected by the signature or vote of a single co-owner.

(d) Provides that an owner is considered to have cast a vote if the owner has taken certain actions.

(e) Authorizes the association or committee to only count a vote cast by petition if the association or committee receives the vote before the deadline stated in the petition.

(f) Prohibits an owner from voting by proxy.

Sec. 210.007. SUBDIVISION CONSISTING OF MULTIPLE SECTIONS. Provides that if a subdivision consisting of multiple sections, each with its own restrictions, is represented by a single property owners' association, a proposal or specific provision of a proposal is adopted if the owners of at least 66 percent of the total number of properties in the subdivision vote in favor of the proposal or provision.

Sec. 210.008. RESOLUTION CERTIFYING RESULTS OF VOTE. (a) Requires the association or committee to certify the results of a vote under this chapter by a written resolution specifying the number of votes for and against the proposal, and to certify that the petition was delivered to each record owner of property in the subdivision as required by Section 210.005.

(b) Requires the association or committee to attach to the resolution a statement of the exact terms of the proposed extension, reinstatement, or modification of or addition to the existing restrictions.

(c) Requires the association or committee to make the resolution, petition, and any signature pages available to any owner on request.

Sec. 210.009. ADDITIONAL PROCEDURES. Provides that the procedures provided by this chapter are in addition to any procedures provided in a subdivision's restrictions for the extension, reinstatement, or modification of or addition to existing restrictions. Authorizes the association or committee to propose the extension, reinstatement, or modification of or addition to existing restrictions either in accordance with the procedures provided by the subdivision's restrictions or the procedures provided by this chapter.

SECTION 2. Effective date: September 1, 2005.