

By: Staples

S.B. No. 1018

A BILL TO BE ENTITLED

AN ACT

relating to the extension or modification of residential restrictive covenants in certain counties.

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 OR MODIFICATION OF 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 a residential real estate subdivision that is located in a county with a population of:

(1) more than 170,000 and less than 175,000; or

(2) more than 45,000 and less than 75,000 that is

1 adjacent to a county with a population of more than 170,000 and less
2 than 175,000.

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

5 (1) the pending expiration of and the inability of
6 owners to extend or modify property restrictions applicable to
7 certain real estate subdivisions in this state creates uncertainty
8 in living conditions and discourages investments in those
9 subdivisions;

10 (2) owners of land in affected subdivisions are
11 reluctant or unable to provide proper maintenance, upkeep, and
12 repairs of structures because of the pending expiration of
13 restrictions;

14 (3) financial institutions cannot or will not lend
15 money for investments, maintenance, upkeep, or repairs in affected
16 subdivisions;

17 (4) these conditions cause dilapidation of housing and
18 other structures and cause unhealthful and unsanitary conditions in
19 affected subdivisions, contrary to the health, safety, and welfare
20 of the public; and

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

25 (b) The purpose of this chapter is to provide a procedure
26 for extending or modifying residential restrictions and to provide
27 for the removal of any restriction or other provision relating to

1 race, religion, or national origin that is void and unenforceable
2 under either the United States Constitution or Section 5.026.

3 Sec. 210.004. EXTENSION OR MODIFICATION OF RESTRICTIONS.

4 (a) In addition to any procedures provided in a subdivision's
5 restrictions, a property owners' association, or a petition
6 committee comprised of at least three owners, may circulate a
7 petition proposing to extend or modify existing restrictions.

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

13 (c) An extension or modification of existing restrictions
14 that is approved by the owners under this chapter is binding on all
15 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 or modification of the
20 existing restrictions.

21 (b) The petition must state the date by which a response
22 must be received in order to be counted.

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

25 (1) the entire proposal; or

26 (2) specific provisions of the proposal.

27 (d) Separate signature pages may be delivered if the

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

9 (e) The petition must be sent by certified mail, return
10 receipt requested, to each owner's mailing address as reflected in
11 the appraisal records maintained by the appraisal district in which
12 the owner's property is located.

13 (f) The signature of an owner on the petition conclusively
14 establishes that the owner received the petition.

15 Sec. 210.006. VOTE ON PROPOSAL. (a) If the petition
16 allows owners to indicate only approval or disapproval of the
17 entire proposal, the proposal is adopted if owners of at least 66
18 percent of the real property in the subdivision vote in favor of the
19 proposal. If the petition allows owners to indicate approval or
20 disapproval of specific provisions of the proposal, a provision is
21 adopted if owners of at least 66 percent of the real property in the
22 subdivision vote in favor of the provision.

23 (b) The property owners' association or petition committee
24 shall exclude votes by lienholders, contract purchasers, and owners
25 of mineral interests.

26 (c) Except as provided by this subsection, the approval or
27 disapproval of multiple owners of a property may be reflected by the

1 signatures of a majority of the co-owners. The approval or
2 disapproval of owners who are married may be reflected by the
3 signature of one of those owners.

4 (d) An owner is considered to have cast a vote if the owner
5 signs the petition indicating approval or disapproval of the
6 proposal or one or more specific provisions of the proposal.

7 (e) The property owners' association or petition committee
8 may only count a vote if the association or committee receives the
9 vote before the deadline stated in the petition.

10 Sec. 210.007. SUBDIVISION CONSISTING OF MULTIPLE SECTIONS.

11 If a subdivision consisting of multiple sections, each with its own
12 restrictions, is represented by a single property owners'
13 association, a proposal or specific provision of a proposal is
14 adopted if owners of at least 66 percent of the total number of
15 properties in the subdivision vote in favor of the proposal or
16 provision.

17 Sec. 210.008. RESOLUTION CERTIFYING RESULTS OF VOTE.

18 (a) The property owners' association or petition committee shall
19 certify the results of a vote under this chapter by a written
20 resolution specifying the number of votes for and against the
21 proposal, or for and against each provision of the proposal, and
22 shall also certify that the petition was delivered to each record
23 owner of property in the subdivision as required by Section
24 210.005.

25 (b) The association or committee shall attach to the
26 resolution a statement of the exact terms of the proposed extension
27 or modification of the existing restrictions.

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

3 Sec. 210.009. ADDITIONAL PROCEDURES. The procedures
4 provided by this chapter are in addition to any procedures provided
5 in a subdivision's restrictions for the extension or modification
6 of existing restrictions. The property owners' association or
7 petition committee may propose the extension or modification of
8 restrictions either in accordance with the procedures provided by
9 the subdivision's restrictions or the procedures provided by this
10 chapter.

11 SECTION 2. This Act takes effect September 1, 2005.