

By: Staples

S.B. No. 1018

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 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.

Sec. 210.003. FINDINGS AND PURPOSE. (a) The legislature

1 finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (1) the entire proposal; or

2           (2) specific provisions of the proposal.

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

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

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

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

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

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

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

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

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

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

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

18       Sec. 210.007. SUBDIVISION CONSISTING OF MULTIPLE SECTIONS.

19 If a subdivision consisting of multiple sections, each with its own  
20 restrictions, is represented by a single property owners'  
21 association, a proposal or specific provision of a proposal is  
22 adopted if owners of at least 66 percent of the total number of  
23 properties in the subdivision vote in favor of the proposal or  
24 provision.

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

26 The property owners' association or petition committee shall  
27 certify the results of a vote under this chapter by a written

1 resolution specifying the number of votes for and against the  
2 proposal, or for and against each provision of the proposal, and  
3 shall also certify that the petition was delivered to each record  
4 owner of property in the subdivision as required by Section  
5 210.005.

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

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

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

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