

1-1 By: Staples S.B. No. 1018
1-2 (In the Senate - Filed March 7, 2005; March 14, 2005, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 22, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 22, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1018 By: Deuell

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the extension or modification of residential
1-11 restrictive covenants in certain counties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Title 11, Property Code, is amended by adding
1-14 Chapter 210 to read as follows:

1-15 CHAPTER 210. EXTENSION OR MODIFICATION OF RESIDENTIAL
1-16 RESTRICTIVE COVENANTS

1-17 Sec. 210.001. DEFINITIONS. In this chapter:

1-18 (1) "Dedictory instrument" has the meaning assigned
1-19 by Section 202.001.

1-20 (2) "Owner" has the meaning assigned by Section
1-21 201.003.

1-22 (3) "Property owners' association" has the meaning
1-23 assigned by Section 202.001.

1-24 (4) "Residential real estate subdivision" or
1-25 "subdivision" has the meaning assigned by Section 201.003.

1-26 (5) "Restrictions" has the meaning assigned by Section
1-27 201.003.

1-28 Sec. 210.002. APPLICABILITY OF CHAPTER. This chapter
1-29 applies to a residential real estate subdivision that is located in
1-30 a county with a population of:

1-31 (1) more than 170,000 and less than 175,000; or

1-32 (2) more than 45,000 and less than 75,000 that is
1-33 adjacent to a county with a population of more than 170,000 and less
1-34 than 175,000.

1-35 Sec. 210.003. FINDINGS AND PURPOSE. (a) The legislature
1-36 finds that:

1-37 (1) the pending expiration of and the inability of
1-38 owners to extend or modify property restrictions applicable to
1-39 certain real estate subdivisions in this state creates uncertainty
1-40 in living conditions and discourages investments in those
1-41 subdivisions;

1-42 (2) owners of land in affected subdivisions are
1-43 reluctant or unable to provide proper maintenance, upkeep, and
1-44 repairs of structures because of the pending expiration of
1-45 restrictions;

1-46 (3) financial institutions cannot or will not lend
1-47 money for investments, maintenance, upkeep, or repairs in affected
1-48 subdivisions;

1-49 (4) these conditions cause dilapidation of housing and
1-50 other structures and cause unhealthy and unsanitary conditions in
1-51 affected subdivisions, contrary to the health, safety, and welfare
1-52 of the public; and

1-53 (5) the existence of race-related covenants in
1-54 restrictions, regardless of their unenforceability, is offensive,
1-55 repugnant, and harmful to members of racial or ethnic minority
1-56 groups and public policy requires that those covenants be removed.

1-57 (b) The purpose of this chapter is to provide a procedure
1-58 for extending or modifying residential restrictions and to provide
1-59 for the removal of any restriction or other provision relating to
1-60 race, religion, or national origin that is void and unenforceable
1-61 under either the United States Constitution or Section 5.026.

1-62 Sec. 210.004. EXTENSION OR MODIFICATION OF RESTRICTIONS.

1-63 (a) In addition to any procedures provided in a subdivision's

2-1 restrictions, a property owners' association, or a petition
2-2 committee comprised of at least three owners, may circulate a
2-3 petition proposing to extend or modify existing restrictions.

2-4 (b) An extension or modification of existing restrictions
2-5 that is approved by the owners becomes effective when the
2-6 resolution required by Section 210.008 is filed as a dedicatory
2-7 instrument with the county clerk of each county in which the
2-8 subdivision is located.

2-9 (c) An extension or modification of existing restrictions
2-10 that is approved by the owners under this chapter is binding on all
2-11 properties in the subdivision.

2-12 Sec. 210.005. PETITION PROCEDURE. (a) The property
2-13 owners' association or petition committee shall deliver to each
2-14 record owner of property in the subdivision a petition describing
2-15 the exact terms of the proposed extension or modification of the
2-16 existing restrictions.

2-17 (b) The petition must state the date by which a response
2-18 must be received in order to be counted.

2-19 (c) The petition may allow each owner to indicate approval
2-20 or disapproval of:

2-21 (1) the entire proposal; or

2-22 (2) specific provisions of the proposal.

2-23 (d) Separate signature pages may be delivered if the
2-24 proposed extension or modification is stated fully or referenced on
2-25 each signature page. A reference may be made by the following or
2-26 substantially similar wording: "We the undersigned owners of
2-27 property in the _____ Subdivision indicate by our signatures
2-28 on this document our approval or disapproval of the proposal(s)
2-29 circulated by _____ on or about [date] to [extend or modify]
2-30 our restrictive covenants. We acknowledge that we have fully
2-31 reviewed the proposal(s)."

2-32 (e) The petition must be sent by certified mail, return
2-33 receipt requested, to each owner's mailing address as reflected in
2-34 the appraisal records maintained by the appraisal district in which
2-35 the owner's property is located.

2-36 (f) The signature of an owner on the petition conclusively
2-37 establishes that the owner received the petition.

2-38 Sec. 210.006. VOTE ON PROPOSAL. (a) If the petition
2-39 allows owners to indicate only approval or disapproval of the
2-40 entire proposal, the proposal is adopted if owners of at least 66
2-41 percent of the real property in the subdivision vote in favor of the
2-42 proposal. If the petition allows owners to indicate approval or
2-43 disapproval of specific provisions of the proposal, a provision is
2-44 adopted if owners of at least 66 percent of the real property in the
2-45 subdivision vote in favor of the provision.

2-46 (b) The property owners' association or petition committee
2-47 shall exclude votes by lienholders, contract purchasers, and owners
2-48 of mineral interests.

2-49 (c) Except as provided by this subsection, the approval or
2-50 disapproval of multiple owners of a property may be reflected by the
2-51 signatures of a majority of the co-owners. The approval or
2-52 disapproval of owners who are married may be reflected by the
2-53 signature of one of those owners.

2-54 (d) An owner is considered to have cast a vote if the owner
2-55 signs the petition indicating approval or disapproval of the
2-56 proposal or one or more specific provisions of the proposal.

2-57 (e) The property owners' association or petition committee
2-58 may only count a vote if the association or committee receives the
2-59 vote before the deadline stated in the petition.

2-60 Sec. 210.007. SUBDIVISION CONSISTING OF MULTIPLE SECTIONS.
2-61 If a subdivision consisting of multiple sections, each with its own
2-62 restrictions, is represented by a single property owners'
2-63 association, a proposal or specific provision of a proposal is
2-64 adopted if owners of at least 66 percent of the total number of
2-65 properties in the subdivision vote in favor of the proposal or
2-66 provision.

2-67 Sec. 210.008. RESOLUTION CERTIFYING RESULTS OF VOTE.
2-68 (a) The property owners' association or petition committee shall
2-69 certify the results of a vote under this chapter by a written

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

3-6 (b) The association or committee shall attach to the
3-7 resolution a statement of the exact terms of the proposed extension
3-8 or modification of the existing restrictions.

3-9 (c) The association or committee shall make the resolution,
3-10 petition, and signature pages available to any owner on request.

3-11 Sec. 210.009. ADDITIONAL PROCEDURES. The procedures
3-12 provided by this chapter are in addition to any procedures provided
3-13 in a subdivision's restrictions for the extension or modification
3-14 of existing restrictions. The property owners' association or
3-15 petition committee may propose the extension or modification of
3-16 restrictions either in accordance with the procedures provided by
3-17 the subdivision's restrictions or the procedures provided by this
3-18 chapter.

3-19 SECTION 2. This Act takes effect September 1, 2005.

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