

BILL ANALYSIS

C.S.H.B. 3287
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, subdivision developers often develop different sections or phases of the development at different times. Frequently, there are different deed restrictions with various expiration dates making it hard for homeowners to alter their deeds at the same time. Although there is a provision in Texas statute for unincorporated areas of a county, if a county has a population of less than 65,000, to change deeds as outlined, it is still difficult for subdivision homeowners to modify their deeds.

C.S.H.B. 3287 provides that, in certain subdivisions, an amendment to a deed restriction providing that an amendment is not operative or effective until a specified date or until the expiration of a specified time period is effective on the filing of an instrument reflecting the amendment, regardless of whether the date specified in the restrictions has occurred or the time prescribed by the restrictions has expired.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 3287 amends the Property Code to specify that provisions relating to the amendment and enforcement of restrictions in certain subdivisions are applicable to restrictions that affect certain real property and that provide that amendments to the restrictions are not operative or effective until the specified date or the expiration of a specified time period. The bill clarifies that an amendment of a restriction in certain subdivisions is effective on the filing of an instrument reflecting the amendment in the real property records of each county in which all or part of the subdivision is located after the approval of the property owners in the subdivision in accordance with the adopted amendment procedure. The bill provides that an amendment of a restriction described above is effective as provided by the bill's provisions, regardless of whether the date specified in the restrictions has occurred or the time prescribed by the restrictions has expired.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 3287 differs from the original by removing provisions making the amendment and enforcement of restrictions in certain subdivisions applicable to restrictions that affect real property within a residential real estate subdivision or any units or parcels of the subdivision and that, by the express terms of the instrument creating the restrictions, specifies that a majority or

more of the owners in the subdivision with all sections of the subdivision collectively having more than one hundred lots or tracts, with fifty percent or more of the lots being unimproved or owned by an absent owner. The substitute removes language in the original requiring a lot to be considered unimproved if there is no residence constructed thereon, and defining "absent owner" to mean a person or persons who do not reside in the subdivision.

C.S.H.B. 3287 adds a provision not in the original to specify that provisions relating to the amendment and enforcement of restrictions in certain subdivisions are applicable to restrictions that affect certain real property and that provide that amendments to the restrictions are not operative or effective until the specified date or the expiration of a specified time period. The substitute adds a provision not in the original to clarify that an amendment of a restriction in certain subdivisions is effective on the filing of an instrument reflecting the amendment in the real property records of each county in which all or part of the subdivision is located after the approval of the property owners in the subdivision in accordance with the adopted amendment procedure. The substitute adds a provision not in the original to provide that an amendment of a restriction described above is effective as provided by the substitute's provisions, regardless of whether the date specified in the restrictions has occurred or the time prescribed by the restrictions has expired.