

1-1 By: West S.B. No. 235
1-2 (In the Senate - Filed November 10, 2008; February 11, 2009,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; March 9, 2009, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; March 9, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to prohibiting a restrictive covenant granting a right of
1-9 first refusal to a property owners' association in certain
1-10 circumstances.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Chapter 202, Property Code, is amended by adding
1-13 Section 202.008 to read as follows:

1-14 Sec. 202.008. RIGHT OF FIRST REFUSAL PROHIBITED. (a) In
1-15 this section, "development period" means a period stated in a
1-16 declaration during which a declarant reserves:

1-17 (1) a right to facilitate the development,
1-18 construction, and marketing of the subdivision;

1-19 (2) a right to direct the size, shape, and composition
1-20 of the subdivision; or

1-21 (3) any other right customarily reserved by a
1-22 declarant for the benefit of developers and builders.

1-23 (b) To the extent a restrictive covenant provides a right of
1-24 first refusal for the sale or lease of a residential unit or
1-25 residential lot in favor of the property owners' association or the
1-26 association's members, the covenant is void.

1-27 (c) This section does not apply to a restrictive covenant
1-28 that provides a right of first refusal in favor of a developer or
1-29 builder during the development period.

1-30 SECTION 2. Section 202.008, Property Code, as added by this
1-31 Act, applies to a deed restriction enacted before, on, or after the
1-32 effective date of this Act.

1-33 SECTION 3. This Act takes effect January 1, 2010.

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