

BILL ANALYSIS

C.S.H.B. 232
By: White
Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a residential subdivision located at least partly in an unincorporated area of a county with population below a specified threshold may amend the covenants, conditions, and restrictions that govern the subdivision. Residential subdivisions located within a municipality's extraterritorial jurisdiction in counties with a population greater than the threshold are limited in amending these restrictions. Interested parties assert that it can be difficult for a homeowners' association to address changes needed to carry out the association's responsibilities in subdivisions whose covenants and restrictions are antiquated and outdated and they further assert that the process for amending such restrictive covenants is too vague as to when an amendment becomes operative or effective. C.S.H.B. 232 seeks to address these issues by establishing provisions relating to the amendment of restrictions in certain residential real estate subdivisions.

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. 232 amends the Property Code to make statutory restrictive covenant provisions relating to the amendment and enforcement of restrictions in certain subdivisions applicable to a residential real estate subdivision or any unit or parcel of a subdivision all of which is located within the extraterritorial jurisdiction of a municipality located in a county that has a population of at least 65,000 and less than 135,000, in addition to a residential real estate subdivision or any unit or parcel of a subdivision all or part of which is located within an unincorporated area of a county if the county has a population of less than 65,000.

C.S.H.B. 232 expands the applicability of those provisions to include restrictions that provide that amendments to the restrictions are not operative or effective until a specified date or the expiration of a specified period. The bill specifies that an amendment of a restriction governed by these provisions 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 owners in accordance with provisions of law. The bill establishes that an amendment of a restriction that is not operative or effective until a specified date or the expiration of a specified period is effective, regardless of whether the date specified in the restrictions has occurred or the period prescribed by the restrictions has expired.

C.S.H.B. 232 amends the applicable definitions of "residential real estate subdivision" and "subdivision" to mean all land encompassed within one or more maps or plats of land that is divided into two or more parts if, in part, the maps or plats cover land all or part of which is not located within a municipality and, for a county with a population of less than 65,000, is not located within the extraterritorial jurisdiction of a municipality or, for a county with a population of at least 65,000 and less than 135,000, is located wholly within the extraterritorial jurisdiction of a municipality, rather than if, in part, the maps or plats cover land that is not within a

municipality or within the extraterritorial jurisdiction of a municipality.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 232 contains a provision not included in the original making statutory restrictive covenant provisions relating to the amendment and enforcement of restrictions in certain subdivisions applicable to a residential real estate subdivision or any unit or parcel of a subdivision all of which is located within the extraterritorial jurisdiction of a municipality located in a county that has a population of at least 65,000 and less than 135,000, in addition to the residential real estate subdivisions, units, or parcels to which those provisions already apply.

C.S.H.B. 232 contains a provision not included in the original amending the applicable definitions of "residential real estate subdivision" and "subdivision" to include both a subdivision all or part of which is located outside a municipality and outside the municipality's extraterritorial jurisdiction if the county has a population of less than 65,000, and a subdivision all or part of which is located outside a municipality but wholly within the municipality's extraterritorial jurisdiction if the county has a population of at least 65,000 and less than 135,000.