

By: White, Kuempel

H.B. No. 232

A BILL TO BE ENTITLED

AN ACT

relating to the amendment of restrictions affecting real property in certain subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 211.001(4), Property Code, is amended to read as follows:

(4) "Residential real estate subdivision" or "subdivision" means all land encompassed within one or more maps or plats of land that is divided into two or more parts if:

(A) the maps or plats cover land all or part of which [that] is not located within a municipality and:

(i) for a county with a population of less than 65,000, is not located [or] within the extraterritorial jurisdiction of a municipality; or

(ii) 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;

(B) the land encompassed within the maps or plats is or was burdened by restrictions limiting all or at least a majority of the land area covered by the map or plat, excluding streets and public areas, to residential use only; and

(C) all instruments creating the restrictions are recorded in the deed or real property records of a county.

SECTION 2. Section 211.002, Property Code, is amended by

1 amending Subsections (a) and (b) and adding Subsections (d) and (e)  
2 to read as follows:

3 (a) This chapter applies only to a residential real estate  
4 subdivision or any unit or parcel of a subdivision:

5 (1) all or part of which is located [~~in whole or in~~  
6 ~~part~~] within an unincorporated area of a county if the county has a  
7 population of less than 65,000; or

8 (2) all of which is located within the  
9 extraterritorial jurisdiction of a municipality located in a county  
10 that has a population of at least 65,000 and less than 135,000.

11 (b) This chapter applies only to restrictions that affect  
12 real property within a residential real estate subdivision or any  
13 units or parcels of the subdivision and that, by the express terms  
14 of the instrument creating the restrictions:

15 (1) are not subject to a procedure by which the  
16 restrictions may be amended; [~~or~~]

17 (2) may not be amended without the unanimous consent  
18 of:

19 (A) all property owners in the subdivision; or

20 (B) all property owners in any unit or parcel of  
21 the subdivision; or

22 (3) provide that amendments to the restrictions are  
23 not operative or effective until a specified date or the expiration  
24 of a specified period.

25 (d) An amendment of a restriction under this chapter is  
26 effective on the filing of an instrument reflecting the amendment  
27 in the real property records of each county in which all or part of

1 the subdivision is located after the approval of the owners in  
2 accordance with the amendment procedure adopted under Section  
3 211.004.

4 (e) An amendment under this chapter of a restriction  
5 described by Subsection (b)(3) is effective as provided by this  
6 chapter, regardless of whether the date specified in the  
7 restrictions has occurred or the period prescribed by the  
8 restrictions has expired.

9 SECTION 3. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2011.