

By: S. Davis of Harris

H.B. No. 1071

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the extension of deed restrictions in certain  
3 residential real estate subdivisions.

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

5 SECTION 1. The heading to Chapter 210, Property Code, is  
6 amended to read as follows:

7 CHAPTER 210. EXTENSION OR MODIFICATION OF RESIDENTIAL RESTRICTIVE  
8 COVENANTS BY PETITION IN CERTAIN SUBDIVISIONS

9 SECTION 2. Title 11, Property Code, is amended by adding  
10 Chapter 212 to read as follows:

11 CHAPTER 212. EXTENSION OF RESTRICTIONS BY MAJORITY VOTE IN CERTAIN  
12 SUBDIVISIONS

13 Sec. 212.001. DEFINITIONS. In this chapter, "lienholder,"  
14 "owner," "restrictions," and "residential real estate subdivision"  
15 or "subdivision" have the meanings assigned by Section 201.003.

16 Sec. 212.002. APPLICABILITY OF CHAPTER. This chapter  
17 applies only to a residential real estate subdivision that:

18 (1) is located wholly or partly in a municipality with  
19 a population of more than two million located in a county with a  
20 population of 3.3 million or more; and

21 (2) is subject to restrictions the terms of which:

22 (A) provide that the restrictions expire;

23 (B) permit the restrictions to be extended after  
24 the initial restriction period expires if a majority of the owners

1 of lots in the subdivision, by a written instrument that is  
2 acknowledged and filed for record, signify consent to the extension  
3 of the restrictions for a further period the maximum length of which  
4 is specified by the restrictions; and

5 (C) do not expressly provide for or expressly  
6 prohibit successive extensions of the restrictions after the  
7 expiration of the initial extension period.

8 Sec. 212.003. PROCEDURE FOR SUCCESSIVE EXTENSIONS. (a)  
9 Restrictions may be extended under this chapter by the written  
10 consent of the owners of a majority of the lots in the subdivision,  
11 without respect to the number of lots owned by a particular owner.

12 (b) Consent for the purposes of this section may be  
13 reflected by an owner's signature on a petition or written ballot.

14 (c) Petitions, written ballots, or both may be distributed  
15 to the owners of lots in the subdivision by any method, including  
16 one or both of the following methods:

17 (1) by door-to-door circulation; or

18 (2) at a meeting of the owners of lots in the  
19 subdivision called for the purpose of voting on the proposed  
20 extension.

21 (d) The required signatures must be obtained during the same  
22 extension period. The petitions, written ballots, or both, as  
23 applicable, must be filed for record in the county in which the  
24 subdivision is located before the earlier of:

25 (1) the first anniversary of the date on which the  
26 first signature is obtained; or

27 (2) the expiration of the extension period during

1 which the signatures are collected.

2 (e) Restrictions may be extended under this chapter only  
3 once during each unexpired extension period.

4 Sec. 212.004. EFFECT OF OWNER SIGNATURE. (a) The vote of  
5 multiple owners of a lot may be reflected by the signature of one of  
6 the owners.

7 (b) After an owner signs a petition or ballot under Section  
8 212.003 or 212.007, the owner's subsequent conveyance of the  
9 owner's interest in a lot or unplatted real property in the  
10 subdivision does not affect the validity of the signature for the  
11 purposes of that section.

12 Sec. 212.005. PROPERTY OWNERS' ASSOCIATION NOT REQUIRED.  
13 Restrictions may be extended under this chapter without the  
14 creation of or action by a property owners' association, homeowners  
15 association, community association, civic club, or similar  
16 organization.

17 Sec. 212.006. EFFECTIVE DATE OF EXTENSION; LENGTH OF  
18 EXTENSION PERIOD. (a) An extension of restrictions under this  
19 chapter takes effect on the date the petitions, written ballots, or  
20 both, as applicable, sufficient to reflect the consent required by  
21 Section 212.003 are filed and recorded in the real property records  
22 of the county in which the subdivision is located.

23 (b) Subject to Section 212.007, an extension of  
24 restrictions under this chapter is for a period equal to the  
25 original term of the restrictions or a shorter period agreed to by  
26 the owners of a majority of the lots in the subdivision in the  
27 petitions, written ballots, or both, as applicable, signed under

1 Section 212.003.

2 Sec. 212.007. TERMINATION OF RESTRICTIONS. (a)

3 Restrictions extended under this chapter may be terminated before  
4 their expiration date if:

5 (1) the consent of the owners of a majority of the lots  
6 in the subdivision to the termination of the restrictions on a  
7 specified date is obtained in the same manner as consent to the  
8 extension of restrictions is obtained under this chapter; and

9 (2) the petitions, written ballots, or both, as  
10 applicable, sufficient to reflect the required consent to  
11 termination are filed for record in the real property records of the  
12 county in which the subdivision is located before the earlier of:

13 (A) the first anniversary of the date on which  
14 the first signature consenting to termination is obtained; or

15 (B) a date specified under Subsection (b)(2).

16 (b) Petitions, written ballots, or both, as applicable,  
17 used to extend restrictions under this section may provide that:

18 (1) the restrictions may be terminated only on one or  
19 more termination dates specified in the petitions, written ballots,  
20 or both, as applicable, used to extend the restrictions; or

21 (2) the petitions, written ballots, or both, as  
22 applicable, sufficient to reflect the required consent to  
23 termination must be filed for record before a time specified in the  
24 petitions, written ballots, or both, as applicable.

25 Sec. 212.008. APPLICABILITY OF EXTENDED RESTRICTIONS. (a)

26 An extension of restrictions under this chapter is binding on all  
27 lots and all unplatted real property in the subdivision, without

1 regard to whether the owner or owners of any individual lot or  
2 unplatted real property signify consent to extend the restrictions.  
3 Any statute authorizing a property owner to opt out of the  
4 applicability of restrictions to the owner's property does not  
5 apply to restrictions extended under this chapter.

6 (b) An extension of restrictions under this chapter is  
7 binding on a lienholder or a person who acquires title to property  
8 at a foreclosure sale or by deed from a foreclosing lienholder.

9 Sec. 212.009. UNCONSTITUTIONAL RESTRICTIONS NOT EXTENDED.  
10 If a provision in restrictions extended under this chapter is void  
11 and unenforceable under the United States Constitution, the  
12 restrictions are considered as if the void and unenforceable  
13 provision was never contained in the restrictions.

14 Sec. 212.010. USE OF ORIGINAL EXTENSION PROCEDURE;  
15 PROCEDURES CUMULATIVE. (a) In addition to the procedure provided  
16 by this chapter for the extension of restrictions, the procedure  
17 provided by the original restrictions for the initial extension of  
18 the restrictions, including the requirement that a specified  
19 percentage of a specified class approve the extension, may be used  
20 for successive extensions of the original restrictions, provided  
21 that the approval obtained includes the approval of the owners of  
22 not less than a majority of the lots in the subdivision.

23 (b) An extension of the restrictions as described by  
24 Subsection (a) is for a period equal to the original term of the  
25 restrictions or a shorter period agreed to by the owners of a  
26 majority of the lots in the subdivision.

27 (c) The procedure provided by this chapter for the extension

1 or termination of restrictions is cumulative of and not in lieu of  
2 any other method by which restrictions of a subdivision to which  
3 this chapter applies may be added to, modified, created, extended,  
4 or terminated.

5 Sec. 212.011. CONSTRUCTION OF CHAPTER AND EXTENDED  
6 RESTRICTIONS. (a) This chapter and any petition or ballot made or  
7 action taken in connection with an attempt to comply with this  
8 chapter shall be liberally construed to effectuate the intent of  
9 this chapter and the petition, ballot, or action.

10 (b) A deed restriction that is extended under this chapter  
11 shall be liberally construed to give effect to the restriction's  
12 purposes and intent.

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