

1-1 By: S. Davis of Harris (Senate Sponsor - Ellis) H.B. No. 1071
1-2 (In the Senate - Received from the House May 6, 2011;
1-3 May 9, 2011, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 19, 2011, reported favorably by
1-5 the following vote: Yeas 5, Nays 0; May 19, 2011, sent to
1-6 printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to the extension of deed restrictions in certain
1-10 residential real estate subdivisions.

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

1-12 SECTION 1. The heading to Chapter 210, Property Code, is
1-13 amended to read as follows:

1-14 CHAPTER 210. EXTENSION OR MODIFICATION OF RESIDENTIAL RESTRICTIVE
1-15 COVENANTS BY PETITION IN CERTAIN SUBDIVISIONS

1-16 SECTION 2. Title 11, Property Code, is amended by adding
1-17 Chapter 212 to read as follows:

1-18 CHAPTER 212. EXTENSION OF RESTRICTIONS BY MAJORITY VOTE IN CERTAIN
1-19 SUBDIVISIONS

1-20 Sec. 212.001. DEFINITIONS. In this chapter, "lienholder,"
1-21 "owner," "restrictions," and "residential real estate subdivision"
1-22 or "subdivision" have the meanings assigned by Section 201.003.

1-23 Sec. 212.002. APPLICABILITY OF CHAPTER. This chapter
1-24 applies only to a residential real estate subdivision that:

1-25 (1) is located wholly or partly in a municipality with
1-26 a population of more than two million located in a county with a
1-27 population of 3.3 million or more; and

1-28 (2) is subject to restrictions the terms of which:

1-29 (A) provide that the restrictions expire;

1-30 (B) permit the restrictions to be extended after
1-31 the initial restriction period expires if a majority of the owners
1-32 of lots in the subdivision, by a written instrument that is
1-33 acknowledged and filed for record, signify consent to the extension
1-34 of the restrictions for a further period the maximum length of which
1-35 is specified by the restrictions; and

1-36 (C) do not expressly provide for or expressly
1-37 prohibit successive extensions of the restrictions after the
1-38 expiration of the initial extension period.

1-39 Sec. 212.003. PROCEDURE FOR SUCCESSIVE EXTENSIONS. (a)
1-40 Restrictions may be extended under this chapter by the written
1-41 consent of the owners of a majority of the lots in the subdivision,
1-42 without respect to the number of lots owned by a particular owner.

1-43 (b) Consent for the purposes of this section may be
1-44 reflected by an owner's signature on a petition or written ballot.

1-45 (c) Petitions, written ballots, or both may be distributed
1-46 to the owners of lots in the subdivision by any method, including
1-47 one or both of the following methods:

1-48 (1) by door-to-door circulation; or

1-49 (2) at a meeting of the owners of lots in the
1-50 subdivision called for the purpose of voting on the proposed
1-51 extension.

1-52 (d) The required signatures must be obtained during the same
1-53 extension period. The petitions, written ballots, or both, as
1-54 applicable, must be filed for record in the county in which the
1-55 subdivision is located before the earlier of:

1-56 (1) the first anniversary of the date on which the
1-57 first signature is obtained; or

1-58 (2) the expiration of the extension period during
1-59 which the signatures are collected.

1-60 (e) Restrictions may be extended under this chapter only
1-61 once during each unexpired extension period.

1-62 Sec. 212.004. EFFECT OF OWNER SIGNATURE. (a) The vote of
1-63 multiple owners of a lot may be reflected by the signature of one of
1-64 the owners.

2-1 (b) After an owner signs a petition or ballot under Section
 2-2 212.003 or 212.007, the owner's subsequent conveyance of the
 2-3 owner's interest in a lot or unplatted real property in the
 2-4 subdivision does not affect the validity of the signature for the
 2-5 purposes of that section.

2-6 Sec. 212.005. PROPERTY OWNERS' ASSOCIATION NOT REQUIRED.
 2-7 Restrictions may be extended under this chapter without the
 2-8 creation of or action by a property owners' association, homeowners
 2-9 association, community association, civic club, or similar
 2-10 organization.

2-11 Sec. 212.006. EFFECTIVE DATE OF EXTENSION; LENGTH OF
 2-12 EXTENSION PERIOD. (a) An extension of restrictions under this
 2-13 chapter takes effect on the date the petitions, written ballots, or
 2-14 both, as applicable, sufficient to reflect the consent required by
 2-15 Section 212.003 are filed and recorded in the real property records
 2-16 of the county in which the subdivision is located.

2-17 (b) Subject to Section 212.007, an extension of
 2-18 restrictions under this chapter is for a period equal to the
 2-19 original term of the restrictions or a shorter period agreed to by
 2-20 the owners of a majority of the lots in the subdivision in the
 2-21 petitions, written ballots, or both, as applicable, signed under
 2-22 Section 212.003.

2-23 Sec. 212.007. TERMINATION OF RESTRICTIONS. (a)
 2-24 Restrictions extended under this chapter may be terminated before
 2-25 their expiration date if:

2-26 (1) the consent of the owners of a majority of the lots
 2-27 in the subdivision to the termination of the restrictions on a
 2-28 specified date is obtained in the same manner as consent to the
 2-29 extension of restrictions is obtained under this chapter; and

2-30 (2) the petitions, written ballots, or both, as
 2-31 applicable, sufficient to reflect the required consent to
 2-32 termination are filed for record in the real property records of the
 2-33 county in which the subdivision is located before the earlier of:

2-34 (A) the first anniversary of the date on which
 2-35 the first signature consenting to termination is obtained; or

2-36 (B) a date specified under Subsection (b)(2).

2-37 (b) Petitions, written ballots, or both, as applicable,
 2-38 used to extend restrictions under this section may provide that:

2-39 (1) the restrictions may be terminated only on one or
 2-40 more termination dates specified in the petitions, written ballots,
 2-41 or both, as applicable, used to extend the restrictions; or

2-42 (2) the petitions, written ballots, or both, as
 2-43 applicable, sufficient to reflect the required consent to
 2-44 termination must be filed for record before a time specified in the
 2-45 petitions, written ballots, or both, as applicable.

2-46 Sec. 212.008. APPLICABILITY OF EXTENDED RESTRICTIONS. (a)
 2-47 An extension of restrictions under this chapter is binding on all
 2-48 lots and all unplatted real property in the subdivision, without
 2-49 regard to whether the owner or owners of any individual lot or
 2-50 unplatted real property signify consent to extend the restrictions.
 2-51 Any statute authorizing a property owner to opt out of the
 2-52 applicability of restrictions to the owner's property does not
 2-53 apply to restrictions extended under this chapter.

2-54 (b) An extension of restrictions under this chapter is
 2-55 binding on a lienholder or a person who acquires title to property
 2-56 at a foreclosure sale or by deed from a foreclosing lienholder.

2-57 Sec. 212.009. UNCONSTITUTIONAL RESTRICTIONS NOT EXTENDED.
 2-58 If a provision in restrictions extended under this chapter is void
 2-59 and unenforceable under the United States Constitution, the
 2-60 restrictions are considered as if the void and unenforceable
 2-61 provision was never contained in the restrictions.

2-62 Sec. 212.010. USE OF ORIGINAL EXTENSION PROCEDURE;
 2-63 PROCEDURES CUMULATIVE. (a) In addition to the procedure provided
 2-64 by this chapter for the extension of restrictions, the procedure
 2-65 provided by the original restrictions for the initial extension of
 2-66 the restrictions, including the requirement that a specified
 2-67 percentage of a specified class approve the extension, may be used
 2-68 for successive extensions of the original restrictions, provided
 2-69 that the approval obtained includes the approval of the owners of

3-1 not less than a majority of the lots in the subdivision.

3-2 (b) An extension of the restrictions as described by
3-3 Subsection (a) is for a period equal to the original term of the
3-4 restrictions or a shorter period agreed to by the owners of a
3-5 majority of the lots in the subdivision.

3-6 (c) The procedure provided by this chapter for the extension
3-7 or termination of restrictions is cumulative of and not in lieu of
3-8 any other method by which restrictions of a subdivision to which
3-9 this chapter applies may be added to, modified, created, extended,
3-10 or terminated.

3-11 Sec. 212.011. CONSTRUCTION OF CHAPTER AND EXTENDED
3-12 RESTRICTIONS. (a) This chapter and any petition or ballot made or
3-13 action taken in connection with an attempt to comply with this
3-14 chapter shall be liberally construed to effectuate the intent of
3-15 this chapter and the petition, ballot, or action.

3-16 (b) A deed restriction that is extended under this chapter
3-17 shall be liberally construed to give effect to the restriction's
3-18 purposes and intent.

3-19 SECTION 3. This Act takes effect immediately if it receives
3-20 a vote of two-thirds of all the members elected to each house, as
3-21 provided by Section 39, Article III, Texas Constitution. If this
3-22 Act does not receive the vote necessary for immediate effect, this
3-23 Act takes effect September 1, 2011.

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