

By: Wu, Button, Davis of Dallas, Farrar

H.B. No. 4271

A BILL TO BE ENTITLED

AN ACT

relating to the redaction of an unconstitutional restriction from an instrument conveying an interest in real property.

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

SECTION 1. Chapter 11, Property Code, is amended by adding Section 11.009 to read as follows:

Sec. 11.009. REDACTION OF UNCONSTITUTIONAL RESTRICTIONS.

(a) If a grantee of an instrument conveying an interest in real property believes that a restriction in the instrument violates the constitution of this state or of the United States, the grantee may bring an action against the county in which the instrument is recorded to request the redaction of the restriction from the instrument.

(b) An action under Subsection (a) may be brought in the county in which the instrument is recorded.

(c) If a court finds that a restriction provided for by an instrument conveying an interest in real property violates the constitution of this state or of the United States, the court shall enter a written order that:

(1) identifies the instrument and the specific language that the court finds violates the constitution of this state or of the United States; and

(2) requires the county clerk to redact the restriction from the instrument.

1 (d) On receipt of a written order from a judge issued under
2 Subsection (c), the county clerk shall redact from the instrument
3 identified by the order the specific language identified by the
4 order.

5 SECTION 2. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2019.