

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1659
By: Murphy (Creighton)
Business & Commerce
5/21/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the development phase of master planned communities, landowners often set aside tracts of land that are known as "commercial reserves." The usage of these tracts is defined by restrictive covenants, commonly referred to as deed restrictions. These tracts are typically reserved for future multifamily or commercial use, once the residential development is ready to support it. In some instances, local property owners' associations have attempted to change the restrictive covenants of a commercial reserve to prevent the tract's use as a multifamily or commercial tract, despite the recorded intentions or the owner's desires.

While there are existing protections for certain non-single family residential property owners against amending restrictive covenants, it has been suggested that these protections should also apply under the Texas Residential Property Owners Protection Act.

H.B. 1659 seeks to remedy this situation by ensuring that the original covenants cannot be overturned by a property owners' association without the owner's consent.

(Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 1659 amends current law relating to the amendment of a residential subdivision's declaration to affect certain types of property located in the subdivision.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 209.0041, Property Code, by adding Subsection (d-1), as follows:

(d-1) Provides that Section 209.0041 (Adoption or Amendment of Certain Dedicatory Instruments) does not apply to an amendment of a declaration if the amendment would affect a portion of a subdivision that is zoned for or that contains, or previously contained as specifically allowed under the declaration, a commercial structure, an industrial structure, an apartment complex, or a condominium as defined by Section 81.002 (Definitions) or 82.003 (Definitions). Defines "apartment complex."

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2021.