

By: Jetton, Morales Shaw, et al.

H.B. No. 1202

A BILL TO BE ENTITLED

AN ACT

relating to the amendment of a dedicatory instrument to remove a discriminatory provision.

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

SECTION 1. Title 11, Property Code, is amended by adding Chapter 216 to read as follows:

CHAPTER 216. AMENDMENT OF DEDICATORY INSTRUMENT TO REMOVE

DISCRIMINATORY PROVISION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 216.001. DEFINITIONS. In this chapter:

(1) "Dedicatory instrument," "petition," "property owners' association," and "restrictive covenant" have the meanings assigned by Section 202.001.

(2) "Discriminatory provision" means a restrictive covenant, whether express or incorporated by reference, that:

(A) prohibits the occupancy by or the sale, lease, conveyance, or transfer of real property or an interest in real property to a person because of race, color, religion, or national origin; and

(B) is void under Section 5.026.

Sec. 216.002. APPLICABILITY OF CHAPTER. This chapter applies to any dedicatory instrument, regardless of the date on which the instrument was recorded.

Sec. 216.003. CONFLICTS WITH OTHER LAW. To the extent of

1 any conflict between this chapter and any other provision of this
2 code, this chapter prevails.

3 Sec. 216.004. CERTAIN AMENDMENTS VOID. An amendment to a
4 dedicatory instrument under this chapter that amends a provision
5 other than a discriminatory provision is void.

6 SUBCHAPTER B. PROPERTY SUBJECT TO PROPERTY OWNERS' ASSOCIATION

7 Sec. 216.011. REMOVAL OF DISCRIMINATORY PROVISION BY
8 PROPERTY OWNERS' ASSOCIATION. (a) The governing body of a property
9 owners' association may amend a dedicatory instrument to remove a
10 discriminatory provision by a majority vote of the governing body:

11 (1) on its own motion; or

12 (2) on the motion of a member of the property owners'
13 association.

14 (b) An amendment adopted under this section is effective if
15 the amendment:

16 (1) indicates that the amendment is adopted under
17 authority of this section by specifically referring to this
18 section;

19 (2) is signed by a majority of the governing body; and

20 (3) is filed in the real property records of each
21 county in which property subject to the discriminatory provision is
22 located.

23 Sec. 216.012. REMOVAL OF DISCRIMINATORY PROVISION BY
24 OWNERS. (a) This section applies only to a dedicatory instrument
25 that contains provisions for the circulation of a petition by the
26 owners of property in the subdivision or development to amend the
27 dedicatory instrument.

1 (b) The governing body of a property owners' association
2 shall amend a dedicatory instrument to remove a discriminatory
3 provision if a petition to remove the provision:

4 (1) is circulated in accordance with the provisions of
5 the dedicatory instrument; and

6 (2) without regard to any threshold for approval of a
7 petition established by the dedicatory instrument, is approved by
8 the owners of at least 10 percent of the total number of lots or
9 units subject to the dedicatory instrument.

10 (c) An amendment adopted under this section is effective if
11 the amendment:

12 (1) indicates that the amendment is adopted under
13 authority of this section by specifically referring to this
14 section; and

15 (2) is filed in the real property records of each
16 county in which property subject to the dedicatory instrument is
17 located.

18 SUBCHAPTER C. PROPERTY NOT SUBJECT TO PROPERTY OWNERS' ASSOCIATION

19 Sec. 216.021. APPLICABILITY OF SUBCHAPTER. This subchapter
20 applies only to a dedicatory instrument that does not establish a
21 property owners' association.

22 Sec. 216.022. AMENDMENT TO REMOVE DISCRIMINATORY
23 PROVISION. An amendment may be filed in accordance with this
24 subchapter to amend a dedicatory instrument to remove a
25 discriminatory provision.

26 Sec. 216.023. AMENDMENT COMMITTEE. (a) Three or more
27 owners of property subject to a dedicatory instrument that contains

1 a discriminatory provision may form an amendment committee for the
2 sole purpose of amending the dedicatory instrument to remove the
3 discriminatory provision.

4 (b) Only one amendment committee may operate under this
5 subchapter at one time. If more than one committee files notice of
6 the committee's formation for the same property subject to a
7 dedicatory instrument, the first committee that files a notice in
8 compliance with Section 216.024 has the authority to act under this
9 subchapter.

10 Sec. 216.024. NOTICE OF AMENDMENT COMMITTEE FORMATION. (a)
11 An amendment committee formed under Section 216.023 shall file
12 written notice of the committee's formation with the county clerk
13 of each county in which property subject to the dedicatory
14 instrument is located.

15 (b) The notice of the amendment committee's formation must
16 contain:

17 (1) a statement that an amendment committee has been
18 formed to amend a dedicatory instrument to remove a discriminatory
19 provision;

20 (2) the name and residential address of each amendment
21 committee member;

22 (3) a reference to the real property records or map or
23 plat records where the dedicatory instrument that contains the
24 discriminatory provision sought to be removed is recorded and the
25 name of the subdivision or development, as applicable; and

26 (4) a copy of the proposed amendment to the dedicatory
27 instrument that indicates the deletion of the discriminatory

1 provision from the original restrictive covenant or that restates
2 the original restrictive covenant without the discriminatory
3 provision.

4 (c) Before filing the notice of the amendment committee's
5 formation under Subsection (a), each amendment committee member
6 must sign and acknowledge the notice before a notary or other
7 official authorized to take acknowledgments.

8 (d) A county clerk who receives a notice of an amendment
9 committee's formation under Subsection (a) shall enter the filing
10 date and record the notice in the county's real property records.

11 Sec. 216.025. NOTICE TO PROPERTY OWNERS. (a) Not later
12 than the 30th day after the date notice of the amendment committee's
13 formation is filed with the county clerk, the amendment committee
14 shall provide a copy of the notice of the amendment committee's
15 formation to the owners of property subject to the dedicatory
16 instrument.

17 (b) Notice may be provided under Subsection (a) by:

18 (1) publishing a copy of the notice of the amendment
19 committee's formation at least once a week for two consecutive
20 weeks in a newspaper of general circulation in each county in which
21 property subject to the dedicatory instrument is located;

22 (2) mailing a copy of the notice of the amendment
23 committee's formation by first class mail to the owner of each lot
24 or unit subject to the dedicatory instrument as of the date the
25 notice is given; or

26 (3) posting a copy of the notice of the amendment
27 committee's formation in a conspicuous manner reasonably designed

1 to provide notice to owners of property subject to the dedicatory
2 instrument, including:

3 (A) in a common area or at an entrance to the
4 subdivision or development;

5 (B) with the consent of the owner, on
6 conspicuously located private property; or

7 (C) on any Internet website maintained by the
8 subdivision or development or other Internet media.

9 Sec. 216.026. OBJECTION TO AMENDMENT BY PROPERTY OWNERS.

10 (a) The owner of property subject to a dedicatory instrument
11 proposed to be amended under a notice of an amendment committee's
12 formation may file an objection to the proposed amendment.

13 (b) An objection under Subsection (a) is effective only if
14 the objection is:

15 (1) signed by the owners of at least 25 percent of the
16 units or lots subject to the dedicatory instrument proposed to be
17 amended; and

18 (2) filed with the county clerk of each county in which
19 the notice of the amendment committee's formation was filed not
20 later than the 90th day after the date the notice of the amendment
21 committee's formation was filed with the county clerk.

22 Sec. 216.027. EFFECTIVE DATE OF AMENDMENT. If an objection
23 is not filed in accordance with Section 216.026, the proposed
24 amendment contained in the notice of the amendment committee's
25 formation filed under Section 216.024(a) becomes effective on the
26 date the notice is filed.

27 Sec. 216.028. DISSOLUTION OF COMMITTEE. (a) A committee

1 that does not file an amendment to a dedicatory instrument before
2 the 120th day after the date the notice of the amendment committee's
3 formation is filed with the county clerk is dissolved.

4 (b) An amendment filed by a dissolved committee is void.

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, 2021.