

BILL ANALYSIS

C.S.H.B. 1202
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The methods to amend deed restrictions are very difficult in Texas. Some communities require impractical supermajorities of homeowners to make even the slightest changes, which is seen as impractical and prohibitive when it comes to removing racist and discriminatory language and restrictions. Communities in Texas are seeking relief to easily amend their own deed restrictions, specifically when it comes to racist and discriminatory content. C.S.H.B. 1202 seeks to remedy this situation by providing three methods through which homeowners may amend their deed restrictions with regard to discriminatory covenants.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1202 amends the Property Code to establish procedures for the amendment of a dedicatory instrument to remove a discriminatory provision, defined by the bill as a restrictive covenant, whether express or incorporated by reference, that 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 that is void under applicable state law.

Property Subject to a Property Owners' Association

C.S.H.B. 1202 authorizes the governing body of a property owners' association to amend a dedicatory instrument to remove a discriminatory provision by a majority vote of the governing body on its own motion or on the motion of an association member. The bill sets out the circumstances under which that amendment is effective.

C.S.H.B. 1202 requires the governing body of a property owners' association to amend a dedicatory instrument to remove a discriminatory provision under the following conditions:

- the dedicatory instrument contains provisions for the circulation of a petition by the owners of property in the subdivision or development to amend the dedicatory instrument;
- a petition to remove the discriminatory provision is circulated in accordance with the dedicatory instrument's provisions; and

- without regard to any threshold for approval of a petition established by the dedicatory instrument, the petition is approved by the owners of at least 10 percent of the total number of lots or units subject to the dedicatory instrument.

The bill sets out the circumstances under which that amendment is effective.

Property Not Subject to a Property Owners' Association

C.S.H.B. 1202 authorizes three or more owners of property subject to a dedicatory instrument that does not establish a property owners' association and that contains a discriminatory provision to form an amendment committee for the sole purpose of amending the dedicatory instrument to remove the discriminatory provision. The bill requires a committee to file written notice of its formation with the county clerk of each county in which property subject to the dedicatory instrument is located and sets out requirements relating to that notice. Only one committee may operate at one time, and if more than one committee files notice of formation for the same property subject to a dedicatory instrument, the first committee that files a compliant notice of formation has the authority to act.

C.S.H.B. 1202 requires the committee to provide a copy of the notice of formation to the owners of property subject to the dedicatory instrument not later than the 30th day after the date the notice is filed with the county clerk and sets out the manner in which that notice may be provided. The owner of property subject to a dedicatory instrument proposed to be amended may file an objection to the proposed amendment, but such an objection is effective only if it is signed by the owners of at least 25 percent of the units or lots subject to the dedicatory instrument and is filed with the appropriate county clerks within a specified time frame. The bill establishes that, if an effective objection is not filed, the proposed amendment contained in the notice of the committee's formation becomes effective on the date the notice is filed. A committee that does not file an amendment to a dedicatory instrument before the 120th day after the date the notice of the committee's formation is filed with the county clerk is dissolved. An amendment filed by a dissolved committee is void.

General Provisions

C.S.H.B. 1202 applies to any dedicatory instrument, regardless of the date on which the instrument was recorded. The bill's provisions prevail to the extent of any conflict with another provision of the Property Code. The bill voids an amendment to a dedicatory instrument under the bill's provisions that amends a provision other than a discriminatory provision.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1202 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The original defined "discriminatory provision" as a restrictive covenant that prohibits the use by or the sale, lease, or transfer of real property or an interest in real property to a person because of race, color, religion, or national origin and that is void under applicable state law. The substitute revises that definition to specify that the restrictive covenant prohibits the occupancy by or the sale, lease, conveyance, or transfer of real property or an interest in real property to a person based on those factors.