

SUBJECT: Extension of deed restrictions in certain residential real estate subdivisions.

COMMITTEE: Business and Industry —favorable, without amendment

VOTE: 8 ayes — Deshotel, Orr, Bohac, Garza, Giddings, Miller, Quintanilla,
Workman

0 nays

1 absent — Solomons

WITNESSES: For — Christopher Amandes, Southampton Civic Club; Jonathan Newport, Houston City Council Member Anne Clutterbuck; (*Registered, but did not testify*: Darrin Hall, City of Houston; Julian Clark Martin, Southampton Place Subdivision Civic Club; John Thompson; Southampton Civic Club)

Against — Irene Adolph, Coalition for HOA Reform, HOADATA.ORG; Nancy Hentschel; (*Registered, but did not testify*: Lynn Walshak, HOA Reform Coalition)

BACKGROUND: Certain real estate subdivisions in Texas have deed restrictions that place limitations on the use of the property. Deed restrictions are usually initiated by developers and usually cannot be changed or removed by subsequent owners.

DIGEST: HB 1071 would allow certain subdivisions to extend their deed restrictions for a term equal to the original term or for a shorter period agreed to by a majority the owners of the subdivision.

HB 1071 would apply only to a residential real estate subdivision that:

- was located wholly or partly in a municipality with a population of more than two million within a county with a population of 3.3 million or more (Houston);
- was subject to restrictions that expired;
- allowed restrictions to be extended if a majority of the owners of lots in the subdivision consented; and

- did not provide for or prohibit successive extensions after the expiration of the initial extension period.

The bill would allow restrictions to be extended by the written consent of the owners of a majority of lots in the subdivision. An extension would be for a period equal to the original term of the restrictions or for a shorter period, as agreed upon by the owners of a majority of lots.

Restrictions could be extended only once during each unexpired extension period. They could be extended without the creation of or action by a property owners association, homeowners association, community association, civic club, or similar organization.

An extension of restrictions as voted on by a majority would apply to all lots and unplatted real property in the subdivision, regardless of whether the owner of any individual lot consented to the extension. Any statute authorizing a property owner to opt out of restrictions to the owner's property would not apply to restrictions extended under this bill.

Restrictions could be terminated before their expiration date if the owners of a majority of lots filed their written consent with the county in which the subdivision was located.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011.

**SUPPORTERS
SAY:**

HB 1071 is a narrowly tailored bill that would make it easier for a neighborhood to maintain deed restrictions without having to create a property owners association. Houston does not have a zoning ordinance, so many neighborhoods rely on deed restrictions to protect their residential character and the investment expectation of property owners.

The bill would apply only to subdivisions in Houston with deed restrictions that provided for one renewal term but were thereafter silent concerning subsequent renewals. In that circumstance, a majority of owners could determine that the deed restrictions be continued for a period equal to the original term of the restrictions or for a shorter period.

This bill has been narrowly bracketed to the Southampton neighborhood of Houston. The neighborhood was established in 1923 with deed

restrictions that had an initial term of 50 years. The deed restrictions were renewed in 1973 and will expire in another 50 years. The bill would allow Southampton to develop a process for extending their deed restrictions without the creation of a property owners association, homeowners association, community association, civic club, or similar organization.

**OPPONENTS
SAY:**

The bill should be more tightly bracketed to affect only the Southampton neighborhood of Houston. It could have the unintended consequence of affecting other communities in Houston.

Property owners who voted against the extension of restrictions would not be allowed to opt out of the restrictions.