

PROPERTY CODE

CHAPTER 210. EXTENSION OR MODIFICATION OF RESIDENTIAL RESTRICTIVE COVENANTS

Sec. 210.001. DEFINITIONS. In this chapter:

- (1) "Dedictory instrument" has the meaning assigned by Section 202.001.
- (2) "Owner" has the meaning assigned by Section 201.003.
- (3) "Property owners' association" has the meaning assigned by Section 202.001.
- (4) "Residential real estate subdivision" or "subdivision" has the meaning assigned by Section 201.003.
- (5) "Restrictions" has the meaning assigned by Section 201.003.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.

Sec. 210.002. APPLICABILITY OF CHAPTER. This chapter applies to a residential real estate subdivision that is located in a county with a population of:

- (1) more than 170,000 and less than 175,000; or
- (2) more than 45,000 and less than 75,000 that is adjacent to a county with a population of more than 170,000 and less than 175,000.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.

Sec. 210.003. FINDINGS AND PURPOSE. (a) The legislature finds that:

- (1) the pending expiration of and the inability of owners to extend or modify property restrictions applicable to certain real estate subdivisions in this state creates uncertainty in living conditions and discourages investments in those subdivisions;
- (2) owners of land in affected subdivisions are reluctant or unable to provide proper maintenance, upkeep, and repairs of structures because of the pending expiration of restrictions;
- (3) financial institutions cannot or will not lend money for investments, maintenance, upkeep, or repairs in affected subdivisions;
- (4) these conditions cause dilapidation of housing and other structures and cause unhealthful and unsanitary conditions in affected subdivisions, contrary to the health, safety, and welfare of the public; and
- (5) the existence of race-related covenants in restrictions, regardless of their unenforceability, is offensive, repugnant, and harmful to members of racial or ethnic minority groups and public policy requires that those covenants be removed.

(b) The purpose of this chapter is to provide a procedure for extending or modifying residential restrictions and to provide for the removal of any restriction or other provision relating to race, religion, or national origin that is void and unenforceable under either the United States Constitution or Section 5.026.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.

Sec. 210.004. EXTENSION OR MODIFICATION OF RESTRICTIONS. (a) In addition to any procedures provided in a subdivision's restrictions, a property owners' association, or a petition committee comprised of at least three owners, may circulate a petition proposing to extend or modify existing restrictions.

(b) An extension or modification of existing restrictions that is approved by the owners becomes effective when the resolution required by Section 210.008 is filed as a dedicatory instrument with the county clerk of each county in which the subdivision is located.

(c) An extension or modification of existing restrictions that is approved by the owners under this chapter is binding on all properties in the subdivision.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.

Sec. 210.005. PETITION PROCEDURE. (a) The property owners' association or petition committee shall deliver to each record owner of property in the subdivision a petition describing the exact terms of the proposed extension or modification of the existing restrictions.

(b) The petition must state the date by which a response must be received in order to be counted.

(c) The petition may allow each owner to indicate approval or disapproval of:

- (1) the entire proposal; or
- (2) specific provisions of the proposal.

(d) Separate signature pages may be delivered if the proposed extension or modification is stated fully or referenced on each signature page. A reference may be made by the following or substantially similar wording: "We the undersigned owners of property in the _____ Subdivision indicate by our signatures on this document our approval or disapproval of the proposal(s) circulated by _____ on or about [date] to [extend or modify] our restrictive covenants. We acknowledge that we have fully reviewed the proposal(s)."

(e) The petition must be sent by certified mail, return receipt requested, to each owner's mailing address as reflected in the appraisal records maintained by the appraisal district in which the owner's property is located.

(f) The signature of an owner on the petition conclusively establishes that the owner received the petition.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.

Sec. 210.006. VOTE ON PROPOSAL. (a) If the petition allows owners to indicate only approval or disapproval of the entire proposal, the proposal is adopted if owners of at least 66 percent of the real property in the subdivision vote in favor of the proposal. If the petition allows owners to indicate approval or disapproval of specific provisions of the proposal, a provision is adopted if owners of at least 66 percent of the real property in the subdivision vote in favor of the provision.

(b) The property owners' association or petition committee shall exclude votes by lienholders, contract purchasers, and owners of mineral interests.

(c) Except as provided by this subsection, the approval or disapproval of multiple owners of a property may be reflected by the signatures of a majority of the co-owners. The approval or disapproval of owners who are married may be reflected by the signature of one of those owners.

(d) An owner is considered to have cast a vote if the owner signs the petition indicating approval or disapproval of the proposal or one or more specific provisions of the proposal.

(e) The property owners' association or petition committee may only count a vote if the association or committee receives the vote before the deadline stated in the petition.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.

Sec. 210.007. SUBDIVISION CONSISTING OF MULTIPLE SECTIONS. If a subdivision consisting of multiple sections, each with its own restrictions, is represented by a single property owners' association, a proposal or specific provision of a proposal is adopted if owners of at least 66 percent of the total number of properties in the subdivision vote in favor of the proposal or provision.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.

Sec. 210.008. RESOLUTION CERTIFYING RESULTS OF VOTE. (a) The property owners' association or petition committee shall certify the results of a vote under this chapter by a written resolution specifying the number of votes for and against the proposal, or for and against each provision of the proposal, and shall also certify that the petition was delivered to each record owner of property in the subdivision as required by Section 210.005.

(b) The association or committee shall attach to the resolution a statement of the exact terms of the proposed extension or modification of the existing restrictions.

(c) The association or committee shall make the resolution, petition, and signature pages available to any owner on request.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.

Sec. 210.009. ADDITIONAL PROCEDURES. The procedures provided by this chapter are in addition to any procedures provided in a subdivision's restrictions for the extension or modification of existing restrictions. The property owners' association or petition committee may propose the extension or modification of restrictions either in accordance with the procedures provided by the subdivision's restrictions or the procedures provided by this chapter.

Added by Acts 2005, 79th Leg., ch. 1180, Sec. 1, eff. Sept. 1, 2005.