

1-1 By: A. Johnson of Harris H.B. No. 1558  
 1-2 (Senate Sponsor - Whitmire)  
 1-3 (In the Senate - Received from the House April 24, 2023;  
 1-4 April 25, 2023, read first time and referred to Committee on  
 1-5 Business & Commerce; May 16, 2023, reported favorably by the  
 1-6 following vote: Yeas 9, Nays 0; May 16, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			
1-18			X	
1-19	X			

1-20 A BILL TO BE ENTITLED  
 1-21 AN ACT

1-22 relating to the extension or amendment of deed restrictions in  
 1-23 certain older subdivisions.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Title 11, Property Code, is amended by adding  
 1-26 Chapter 216 to read as follows:

1-27 CHAPTER 216. EXTENSION OR AMENDMENT OF RESTRICTIONS IN CERTAIN  
 1-28 OLDER SUBDIVISIONS

1-29 Sec. 216.001. DEFINITIONS. In this chapter:

1-30 (1) "Dedicatory instrument" has the meaning assigned  
 1-31 by Section 202.001.

1-32 (2) "Lienholder" and "owner" have the meanings  
 1-33 assigned by Section 201.003.

1-34 (3) "Older subdivision" means a subdivision described  
 1-35 by a recorded map or plat filed before 1947 in the real property  
 1-36 records of the county in which the subdivision is located.

1-37 (4) "Petition" has the meaning assigned by Section  
 1-38 202.001.

1-39 (5) "Property owners' association" means an  
 1-40 incorporated or unincorporated homeowners' association, community  
 1-41 association, civic club, or similar entity that:

1-42 (A) has a membership primarily consisting of the  
 1-43 owners of real property in a subdivision; and

1-44 (B) supports the enforcement of or promotes the  
 1-45 observance of the deed restrictions applicable to all or part of the  
 1-46 property located in the subdivision.

1-47 (6) "Restrictions" has the meaning assigned by Section  
 1-48 209.002.

1-49 (7) "Subdivision" means land that:

1-50 (A) consists of multiple sections that have each  
 1-51 been divided into two or more parts on a map or plat that has been  
 1-52 recorded in the real property records of a county; and

1-53 (B) is or was subject to restrictions that:

1-54 (i) limit a majority of the land, excluding  
 1-55 streets and public areas, to residential use; and

1-56 (ii) were recorded in the real property  
 1-57 records of the county.

1-58 Sec. 216.002. FINDINGS AND PURPOSE. (a) The legislature  
 1-59 finds that:

1-60 (1) the inability of owners to extend or amend  
 1-61 property restrictions in older subdivisions in which no zoning

2-1 regulations apply creates uncertainty in living conditions and  
2-2 discourages investments in those subdivisions;  
2-3 (2) owners in affected older subdivisions are  
2-4 reluctant or unable to provide proper maintenance, upkeep, and  
2-5 repairs of structures because of the inability to amend the  
2-6 restrictions in response to changing circumstances;  
2-7 (3) these conditions will cause dilapidation of  
2-8 housing and other structures and cause unhealthful and unsanitary  
2-9 conditions in affected older subdivisions, contrary to the health,  
2-10 safety, and welfare of the public; and  
2-11 (4) the existence of race-related covenants in  
2-12 restrictions, regardless of their unenforceability, is offensive,  
2-13 repugnant, and harmful to members of racial or ethnic minority  
2-14 groups and public policy requires that those covenants be removed.  
2-15 (b) The purpose of this chapter is to provide a procedure  
2-16 for extending or amending restrictions for certain older  
2-17 subdivisions, including the removal of any restriction relating to  
2-18 race, religion, or national origin that is void and unenforceable  
2-19 under the United States Constitution or Section 5.026.  
2-20 Sec. 216.003. APPLICABILITY OF CHAPTER. (a) This chapter  
2-21 applies only to an older subdivision that:  
2-22 (1) is wholly or partly located in a municipality with  
2-23 a population of two million or more;  
2-24 (2) had original restrictions that:  
2-25 (A) did not have an express procedure that  
2-26 provides for successive extensions of the restrictions;  
2-27 (B) did not have an express procedure for  
2-28 amending the restrictions;  
2-29 (C) could not be amended without the unanimous  
2-30 consent of:  
2-31 (i) all owners in the subdivision; or  
2-32 (ii) all owners in any section of the  
2-33 subdivision; or  
2-34 (D) may no longer be valid due to an inability to  
2-35 extend or amend the restrictions; and  
2-36 (3) has a single property owners' association in which  
2-37 all owners in the subdivision are eligible for membership but in  
2-38 which membership is not mandatory.  
2-39 (b) This chapter applies to a restriction regardless of the  
2-40 date on which the restriction was created.  
2-41 (c) This chapter supersedes any contrary requirement for  
2-42 the extension or amendment of a restriction in a dedicatory  
2-43 instrument of a subdivision to which this chapter applies.  
2-44 (d) This chapter does not apply to:  
2-45 (1) a residential subdivision described by Section  
2-46 209.0041(b); or  
2-47 (2) a condominium, as defined by Section 81.002 or  
2-48 82.003.  
2-49 Sec. 216.004. AMENDMENT OF RESTRICTIONS. (a) For purposes  
2-50 of this chapter, the amendment of restrictions includes the  
2-51 adoption of new restrictions or the modification or removal of  
2-52 existing restrictions.  
2-53 (b) An amendment of restrictions under this chapter may not  
2-54 create a property owners' association with mandatory membership.  
2-55 An amendment of restrictions under this chapter that creates a  
2-56 property owners' association with mandatory membership is void.  
2-57 Sec. 216.005. PROPERTY OWNERS' ASSOCIATION ACTION NOT  
2-58 REQUIRED. Except as provided by Section 216.008, restrictions may  
2-59 be extended or amended under this chapter without action by the  
2-60 property owners' association.  
2-61 Sec. 216.006. EXTENSION OF RESTRICTIONS. (a) Restrictions  
2-62 may be extended as provided by Section 216.007 or, if a dedicatory  
2-63 instrument provides a procedure for an initial extension of the  
2-64 original restrictions, that procedure may be used for successive  
2-65 extensions of the original restrictions unless the dedicatory  
2-66 instrument expressly prohibits the procedure from being used for  
2-67 successive extensions. If the dedicatory instrument prohibits the  
2-68 procedure from being used to provide for automatic extension of  
2-69 restrictions, the procedure may not be used under this subsection

3-1 to provide for automatic extension of the restrictions.

3-2 (b) A provision in a dedicatory instrument that prohibits  
 3-3 the extension of an existing restriction during a certain period  
 3-4 does not apply to a successive extension under a procedure for  
 3-5 initial extension of original restrictions under Subsection (a).

3-6 (c) An extension of restrictions under this chapter may:

3-7 (1) be for a period equal to the original term of the  
 3-8 restrictions or a shorter period; and

3-9 (2) subject to Subsection (a), provide for additional  
 3-10 automatic extensions of the term of the restrictions for a period of  
 3-11 not more than 10 years for each extension.

3-12 (d) A dedicatory instrument that provides for the extension  
 3-13 of restrictions and does not provide for amendment of restrictions  
 3-14 may be amended under this chapter, including by amending the  
 3-15 provision providing for the extension of the restrictions.

3-16 Sec. 216.007. CONSENT REQUIRED FOR EXTENSION OR AMENDMENT  
 3-17 OF RESTRICTIONS. (a) A restriction may be extended or amended by a  
 3-18 petition or ballots that indicate the written consent of the owners  
 3-19 of at least 66.6 percent of the total number of separately owned  
 3-20 parcels or tracts in the subdivision, regardless of whether the  
 3-21 parcels or tracts contain part or all of one or more platted lots or  
 3-22 combination of lots.

3-23 (b) A restriction that is extended or amended as described  
 3-24 by Subsection (a) applies to all sections of the subdivision,  
 3-25 including any annex, to the extent that the extended or amended  
 3-26 restriction expressly applies to the entire subdivision,  
 3-27 regardless of whether:

3-28 (1) each section has separate restrictions; or

3-29 (2) each owner is a member of the property owners'  
 3-30 association.

3-31 (c) If the original restrictions for a subdivision contain a  
 3-32 lower percentage to extend or amend the restrictions, the  
 3-33 percentage in the original restrictions controls.

3-34 Sec. 216.008. PETITION OR BALLOTS. (a) After receiving  
 3-35 written approval of a petition or ballot by the property owners'  
 3-36 association, the petition or ballots for the extension or amendment  
 3-37 of restrictions must be distributed to the owners in the  
 3-38 subdivision by any public method, including:

3-39 (1) by United States mail;

3-40 (2) by electronic mail or other method of electronic  
 3-41 transmission or publication, including publication on an Internet  
 3-42 website;

3-43 (3) by door-to-door circulation;

3-44 (4) by publication in a newspaper or similar  
 3-45 publication of general circulation in the municipality in which the  
 3-46 subdivision is located; or

3-47 (5) at a meeting of the owners in the subdivision  
 3-48 called for the purpose of voting on the proposed extension or  
 3-49 amendment.

3-50 (b) The petition or ballots may be provided to owners in  
 3-51 separate documents. The separate documents are considered to be  
 3-52 one instrument.

3-53 (c) If a restriction is amended under this chapter, a  
 3-54 petition or ballot for a subsequent amendment of the restrictions  
 3-55 may not be distributed under Subsection (a) before the fifth  
 3-56 anniversary of the effective date of the amended restriction under  
 3-57 Section 216.010.

3-58 Sec. 216.009. EFFECT OF OWNER'S SIGNATURE. (a) An owner's  
 3-59 signature on a petition or ballot conclusively establishes the  
 3-60 owner's consent for the purposes of this chapter.

3-61 (b) The vote of multiple owners of a lot, parcel, or tract  
 3-62 may be reflected by the signature of one of the owners.

3-63 (c) After an owner signs a petition or ballot for an  
 3-64 extension or amendment of a restriction, the owner's subsequent  
 3-65 conveyance of the owner's interest in real property in the  
 3-66 subdivision covered by the extension or amendment does not affect  
 3-67 the validity of the signature for the purposes of the petition or  
 3-68 ballot.

3-69 Sec. 216.010. EFFECTIVE DATE OF EXTENSION OR AMENDMENT. An

4-1 extension or amendment of a restriction under this chapter takes  
4-2 effect on the date the extension or amendment and the petition or  
4-3 ballots that reflect the written consent of the required number of  
4-4 owners in the subdivision for the adoption of the extension or  
4-5 amendment are filed and recorded in the real property records of the  
4-6 county in which the subdivision is located.

4-7 Sec. 216.011. APPLICABILITY OF EXTENSION OR AMENDMENT. (a)  
4-8 An extension or amendment of a restriction under this chapter is  
4-9 binding on a lot, parcel, or tract in the subdivision as provided by  
4-10 the restriction, regardless of whether the owner or owners of the  
4-11 lot, parcel, or tract consented to the extension or amendment.

4-12 (b) Notwithstanding any other law, an owner may not opt out  
4-13 of the applicability to the owner's property of a restriction that  
4-14 is extended or amended under this chapter.

4-15 (c) An extension or amendment of a restriction under this  
4-16 chapter is binding on a lienholder or a person who acquires title to  
4-17 property at a foreclosure sale or by deed from a foreclosing  
4-18 lienholder.

4-19 Sec. 216.012. UNCONSTITUTIONAL RESTRICTIONS NOT EXTENDED.  
4-20 If a provision in restrictions extended under this chapter is void  
4-21 and unenforceable under the United States Constitution or Section  
4-22 5.026, the restrictions are considered as if the void and  
4-23 unenforceable provision was never contained in the restrictions.

4-24 Sec. 216.013. PROCEDURES CUMULATIVE. The procedure  
4-25 provided by this chapter for the extension or amendment of  
4-26 restrictions is cumulative of and not in lieu of any other method by  
4-27 which restrictions of a subdivision to which this chapter applies  
4-28 may be extended or amended.

4-29 Sec. 216.014. CONSTRUCTION OF CHAPTER AND RESTRICTIONS.  
4-30 (a) This chapter and any petition or ballot made or action taken in  
4-31 connection with an attempt to comply with this chapter shall be  
4-32 liberally construed to effectuate the intent of this chapter and  
4-33 the petition, ballot, or action.

4-34 (b) A restriction that is extended or amended under this  
4-35 chapter shall be liberally construed to give effect to the  
4-36 restriction's purposes and intent.

4-37 SECTION 2. This Act takes effect immediately if it receives  
4-38 a vote of two-thirds of all the members elected to each house, as  
4-39 provided by Section 39, Article III, Texas Constitution. If this  
4-40 Act does not receive the vote necessary for immediate effect, this  
4-41 Act takes effect September 1, 2023.

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