

SUBJECT: Expanding the definition of subdivisions eligible for restrictive covenants

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 8 ayes — Deshotel, Elkins, England, Gattis, Giddings, S. Miller, Quintanilla, S. Turner

0 nays

3 absent — Christian, Keffer, Orr

WITNESSES: For — James Featherston, Emerald Bay Homeowners Association; David Smith, Texas Neighborhoods Together; (*Registered, but did not testify*: David Mintz, Community Associations Institute, Texas Legislative Action Committee)

Against — Irene “Beanie” Adolph, Malu Hamburger, Texas Homeowners for HOA Reform; William Davis; Nancy Hentschel, Texas HOA Reform; (*Registered, but did not testify*: Kenneth Hamburger, Lynn G. Walshak, Texas Homeowners for HOA Reform)

BACKGROUND: Property Code, secs. 201.003 and 210.001 define a “residential real estate subdivision” as one in which all land is encompassed within one or more maps or plats of land, the majority of which is restricted to residential use only and that is divided into two or more parts if the maps or plats cover land within a city, town, or village, or within the extraterritorial jurisdiction of a city, town, or village and are recorded in the deed, map, or real property records of a county.

Sec. 210.002 establishes procedures for extending or modifying residential restrictions and for the removal of any restriction related to race, religion, or national origin in residential subdivisions located in counties with populations between 170,000 and 175,000 or adjacent counties with populations between 45,000 and 75,000.

DIGEST: HB 257 would raise the maximum population limit for counties subject to statutory provisions regarding residential restrictions to 250,000. It also would state that residential real estate subdivisions in those counties would

not have to be located within the limits or extraterritorial jurisdiction of a city, town, or village.

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, 2009.

**SUPPORTERS
SAY:**

HB 257 would make technical corrections to provide for the rapid population growth seen in many Texas counties, including Smith County. The bill is targeted to a specific area of the state, and is not intended to address larger issues involving homeowner associations.

**OPPONENTS
SAY:**

The bill would extend the reach of homeowner associations and could require mandatory participation in these groups. HB 257 also could allow liens or deed restrictions to be placed on homes against the will of homeowners who do not live within a city or its extraterrestrial jurisdiction.

NOTES:

The companion bill, SB 1672 by Nichols, passed the Senate by 31-0 on May 5 on the Local and Uncontested Calendar.