

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1129
By: Farrar (Gallegos)
Intergovernmental Relations
5/21/2003
Committee Report (Substituted)

DIGEST AND PURPOSE

Since the City of Houston is not zoned, it has to rely on deed restrictions to stop the encroachment of noncompatible land uses and inappropriate development. Currently, the City of Houston's Legal Department, Neighborhood Protection Division, can enforce three different types of deed restrictions: residential use; setbacks; and the lot size and number of structures on a lot. Recently, when petitioning the city to enforce deed restrictions, many citizens have been told that the deed restrictions are too vague and ambiguous to be enforceable. This bill attempts to ameliorate this problem by more explicitly stating what types of deed restrictions the city can enforce.

C.S.H.B. 1129 pertains only to the City of Houston and is intended to help ensure that communities can implement and enforce appropriate deed restrictions to ensure that older and lower income residential areas have the tools they need to help revitalize their communities.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 212.132, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, to redefine "restriction."

SECTION 2. Amends Section 212.133, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, as follows:

- (a) Makes a conforming change.
- (b) Prohibits the municipality from initiating or maintaining a suit to enjoin or abate a violation of a restriction if a property owners' association with the authority to enforce the restriction files suit to enforce the restriction.
- (c) Prohibits the association, in a suit by a property owners' association to enforce a restriction, from submitting into evidence or otherwise using the work product of the municipality's legal counsel.
- (d) Provides that in a suit filed under this section alleging that certain activities violate a restriction limiting property to property to residential use, it as [sic] not a defense that the activity is incidental to the residential use of the property.

SECTION 3. Makes application of Section 212.133, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, and amended by this Act, prospective.

SECTION 4. Amends Subchapter E, Chapter 212, Local Government Code, as redesignated by Chapter 1420, Acts of the 77th Legislature, Regular Session, 2001, by adding Section 212.1335, as follows:

Sec. 212.1335. FORECLOSURE BY PROPERTY OWNERS ASSOCIATION. (a) Prohibits a municipality from participating in a suit or other proceeding to foreclose a property owners' association's lien on real property.

(b) Prohibits the association, in a suit or other proceeding to foreclose a property owners' association's lien on real property in the subdivision, from submitting into evidence or otherwise use the work product of the municipality's legal counsel.

SECTION 5. Section 212.138, Local Government Code, EFFECT ON OTHER LAW.

Provides that neither this section, nor any provision in law, prohibits the exhibition, play, or necessary incidental action thereto of a sweepstakes not prohibited by Section 43, Business and Commerce Code.

SECTION 6. Makes application of Section 212.1335, Local Government Code, as added by this Act, prospective.

SECTION 7. Effective date: September 1, 2003.