

BILL ANALYSIS

Senate Research Center
76R6304 PAM-F

H.B. 1956
By: Danburg (Gallegos)
Intergovernmental Relations
5/11/1999
Engrossed

DIGEST

Houston Heights was established in 1891 and incorporated as an independent village under Texas law in 1896. No restrictive covenants were included in the initial subdivision map or individual deeds. In 1918, Houston Heights was annexed by the City of Houston, which has no zoning. The Houston Heights Association was incorporated as a Texas nonprofit corporation dedicated to preserve the historic character of Houston Heights. H.B. 1956 would authorize the amendment or termination of restrictive covenants affecting real property in certain historic neighborhoods.

PURPOSE

As proposed, H.B. 1956 authorizes the amendment or termination of restrictive covenants affecting real property in certain historic neighborhoods.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth the legislative purpose of this bill.

SECTION 2. Amends Title 11, Property Code, by adding Chapter 207, as follows:

CHAPTER 207. AMENDMENT AND TERMINATION OF RESTRICTIVE COVENANTS IN HISTORIC NEIGHBORHOODS

Sec. 207.001. DEFINITIONS. Defines “owner,” “real property,” “dedicatory instrument,” “property owners’ association,” “petition,” “restrictive covenant,” “regular assessment,” “special assessment,” “apartment complex,” and “historic neighborhood.”

Sec. 207.002. APPLICABILITY. Provides that this chapter applies only to a historic neighborhood that is located in whole or in part in a municipality with a population of 1.6 million or more located in a county with a population of 2.8 million or more. Provides that this chapter applies to a restrictive covenant regardless of the date on which it was created. Provides that this chapter applies to property in the area of a historic neighborhood that is zoned for or that contains certain structures.

Sec. 207.003. HISTORIC NEIGHBORHOOD PRESERVATION ASSOCIATION. Requires a historic neighborhood preservation association (association) to take certain action. Authorizes an association to be composed of only a portion of the owners of property in the historic neighborhood. Authorizes the association to be a property owners’ association or an organization that is qualified as a charitable organization under Section 501(c)(3) or the International Revenue Code of 1986. Provides that a statement in the articles of incorporation or association, bylaws, regulations, or operating agreement of the historic neighborhood preservation association is prima facie evidence of compliance with Subsection (a).

Sec. 207.004. COMMON SCHEME FOR PRESERVATION OF PROPERTY IN HISTORIC NEIGHBORHOOD. Provides that a common scheme for preservation of historic property exists in a historic neighborhood if certain conditions exist. Provides that a common scheme for preservation of historic property does not include property that is not subject to restrictive

covenants that authorize a historic neighborhood preservation association to enforce the restrictive covenants. Provides that restrictive covenants included in a common scheme for preservation of historic property exist for the benefit of all owners of property subject to the common scheme for preservation as if each owner were referenced in each dedicatory instrument. Authorizes each owner of property subject to a common scheme for preservation of historic property to enforce restrictive covenants on other property included in the common scheme for preservation.

Sec. 207.005. AMENDMENT OR TERMINATION OF RESTRICTIVE COVENANTS UNDER COMMON SCHEME FOR PRESERVATION. Prohibits a restrictive covenant applicable to property that is included in a common scheme for preservation of historic property from being amended or terminated except as provided by this section. Authorizes an association to approve and submit to a vote of the owners of property that is included in a common scheme for preservation of historic property an amendment of the restrictive covenants included in the common scheme for preservation of historic property. Provides that the amendment or termination of a restrictive covenant is effective and applies to each separately owned parcel or tract subject to the common scheme for preservation of historic property if the owners of at least 75 percent of the parcels or tracts who vote on the issue in accordance with Section 207.006 vote in favor of the amendment or termination of the restrictive covenant. Provides that a document certifying that 75 percent of the owners voting on the issue approved the amendment or termination of the restrictive covenant to be recorded by the association in the real property records of the county in which the association in the real property records of the county in which the historic neighborhood is located. Provides that the document is prima facie evidence that the requisite percentage of votes was attained and the required formalities for the action were taken.

Sec. 207.006. METHOD OF VOTING. Requires an amendment or termination of a restrictive covenant to be voted on by certain methods. Requires the association to take certain action, if the vote occurs at a meeting of the association under Subsection (a)(2). Requires the association to provide for the mailing to each owner, as applicable certain items. Authorizes the vote of multiple owners of a property to be reflected by signature or vote of one of the owners. Requires the association to record a copy of the ballot or petition, as applicable, in the real property records of the county in which the historic neighborhood is located before the vote of the owners.

Sec. 207.007. REGULAR AND SPECIAL ASSESSMENTS. Prohibits the procedure established by this chapter for the amendment of restrictive covenants from being used to establish a regular or special assessment.

Sec. 207.008. BUILDING LINES. Prohibits the procedures established by this chapter for the amendment of restrictive covenants from being used to modify a building line established by a restrictive covenant, municipal map, or subdivision plat.

Sec. 207.009. DEFENSE TO ENFORCEMENT OF RESTRICTIVE COVENANT. Prohibits an owner from asserting as a defense to the enforcement of restrictive covenant that is part of a common scheme for preservation of historic property that the owner or a predecessor in title signed a blank signature page or similar procedural defect if the signature page was attached to a dedicatory instrument adopted by a association and certain action was taken.

SECTION 3. Emergency clause.

Effective date: upon passage.