

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 1067
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Intergovernmental Relations
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Section 212.014, Local Government Code, allows property to be replatted without vacating the original plat if the replat does not attempt to amend or remove any covenants or restrictions. For 23 years the City of Houston allowed a person to replat a piece of property and remove or change building lines with only the signatures of the owners of the property that would be covered by the proposed replat.

In July of 2006, the Houston Planning Commission and city legal department changed their interpretation of the term "covenants or restrictions." The new interpretation includes building lines shown on a plat and has resulted in the Houston Planning Commission disapproving proposed replats that change or remove building lines unless all owners of property covered by the original plat sign the replat.

C.S.H.B. 1067 specifies that "covenants and restrictions" are only relevant if they are contained or referenced in a recorded dedicatory instrument. This legislation conforms state law to the method used by the City of Houston to handle replats from 1983 through mid-2006, and is bracketed to the City of Houston.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 212, Local Government Code, by adding Section 212.0146, as follows:

Sec. 212.0146. REPLATTING WITHOUT VACATING PRECEDING PLAT: CERTAIN MUNICIPALITIES. (a) Provides that this section applies only to a replat of a subdivision or a part of a subdivision located in a municipality or the extraterritorial jurisdiction of a municipality with a population of 1.9 million or more.

(b) Authorizes a replat of a subdivision or part of a subdivision to be recorded and provides that the replat is controlling over the preceding plat without vacation of that plat if the replat satisfies certain conditions.

(c) Authorizes the governing body of a municipality to adopt rules governing replats, including rules that establish criteria under which covenants, restrictions, or plat notations that are contained only in the preceding plat or replat without reference in any dedicatory instrument recorded in the real property records separately from the preceding plat or replat are authorized to be amended or removed.

SECTION 2. (a) Provides that this section applies only to a municipality with a population of 1.9 million or more that approved the replat or attempted replat of a subdivision before the effective date of this Act.

(b) Provides that the governmental acts and proceedings of the municipality relating to the approval of a replat or attempted replat of a subdivision or a part of a subdivision by

the municipality are validated as of the dates they occurred and prohibits such acts and proceedings from being held invalid because they were not performed in accordance with Chapter 212 (Municipal Regulation of Subdivisions and Property Developments), Local Government Code, or other law.

(c) Prohibits the governmental acts and proceedings of the municipality occurring after a replat or attempted replat of a subdivision or a part of a subdivision by the municipality from being held invalid on the ground that the replat or attempted replat, in the absence of this section, was invalid.

(d) Provides that this section does not apply to any matter that, on the effective date of this Act, is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court or has been held invalid by a final judgment of a court.

SECTION 3. Effective date: upon passage or September 1, 2007.