

BILL ANALYSIS

Senate Research Center

S.B. 1852
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, a residential subdivision located at least partly in an unincorporated area of a county with population below a specified threshold may amend the covenants, conditions, and restrictions that govern the subdivision. Residential subdivisions located within a municipality's extraterritorial jurisdiction in counties with a population greater than the threshold are limited in amending these restrictions. Interested parties assert that it can be difficult for a homeowners' association to address changes needed to carry out the association's responsibilities in subdivisions whose covenants and restrictions are antiquated and outdated and they further assert that the process for amending such restrictive covenants is too vague as to when an amendment becomes operative or effective. S.B. 1852 provides property owners who are members of a home owners association (HOA) or property owners association (POA) located in San Jacinto County, Polk County, or Trinity County an opportunity to vote on a workable procedure for amending the deed restrictions on their private property.

S.B. 1852 amends current law relating to the adoption of an amendment procedure for restrictive covenants affecting real property in certain residential subdivisions.

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 Sections 211.002(a), (b), and (b-1), Property Code, as follows:

(a) Provides that this chapter applies only to a residential real estate subdivision or any unit or parcel of a subdivision:

(1) Makes no change to this subdivision;

(2) and (3) Makes nonsubstantive changes;

(4) all or part of which is located within a county that borders Lake Livingston and has a population of less than 50,000.

(b) Provides that this chapter applies only to restrictions that affect real property within a residential real estate subdivision or any units or parcels of the subdivision and that, by the express terms of the instrument creating the restrictions:

(1) and (2) Makes a nonsubstantive changes;

(3) may not be amended without a written instrument that is signed by a majority or more than a majority of the owners of the lots in the subdivision and filed in the real property records of each county in which all or part of the subdivision is located.

(b-1) Provides that this subsection expires September 1, 2019, rather than September 1, 2015.

SECTION 2. Effective date: upon passage or September 1, 2015.