

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H2/17/11

A Bill

HOUSE BILL 1354

5 By: Representative Vines
6 By: Senator Burnett
7

For An Act To Be Entitled

9 AN ACT TO CLARIFY THE REQUIREMENTS FOR AMENDING
10 COVENANTS RESTRICTING THE USE OR DEVELOPMENT OF REAL
11 PROPERTY; AND FOR OTHER PURPOSES.
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Subtitle

15 TO CLARIFY THE REQUIREMENTS FOR AMENDING
16 COVENANTS RESTRICTING THE USE OR
17 DEVELOPMENT OF REAL PROPERTY.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. DO NOT CODIFY. Findings and legislative intent.

23 (a) The General Assembly finds that:

24 (1) The decision of the Arkansas Court of Appeals in Rausch
25 Coleman Homes, LLC v. Brech, 2009 Ark. App. 225, 303 S.W.3d 456 (Ark. App.
26 2009) unduly restricts the use and development of real property; and

27 (2) It is in the best interests of the people of the State of
28 Arkansas to foster the ability of landowners to amend private covenants to
29 obtain the best possible use of the landowners' real property.

30 (b) It is the intent of the General Assembly by passing this act to
31 encourage and promote the use and economic development of land in the State
32 of Arkansas by clarifying the requirements for amending covenants restricting
33 the use or development of real property.
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35 SECTION 2. Arkansas Code § 18-12-103 is amended to read as follows:

36 18-12-103. Restrictive covenants.



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(a) As used in this section, "restrictive covenant" means a restriction on the use or development of real property regardless of whether the restriction is created by a covenant in a deed or bill of assurance, or by any other instrument.

~~No~~ An instrument creating a restrictive or protective covenants affecting the use of real property nor any instrument purporting to restrict the use of real property shall be valid or covenant is not effective against a subsequent purchaser or owner of to restrict the use or development of real property unless the restrictive or protective covenants or instrument purporting to restrict the use or development of the real property is executed by the owners of the real property and recorded in the office of the recorder of the county in which the property is located.

(c) If the instrument creating a restrictive covenant contains separate sections stating the duration of the covenant and the requirements for amending the covenant, the section or sections stating the duration of the covenant shall be read independently of the section or sections stating the requirements for amending the covenant so that the duration of the covenant does not limit the ability to amend a restrictive covenant at any time.

/s/Vines

APPROVED: 03/04/2011