1	State of Arkansas	As Engrossed: H2/17/11
2	88th General Assembly	A Bill
3	Regular Session, 2011	HOUSE BILL 1354
4		
5	By: Representative Vines	
6	By: Senator Burnett	
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8		For An Act To Be Entitled
9	AN ACT TO CLA	RIFY THE REQUIREMENTS FOR AMENDING
10	COVENANTS RES	TRICTING THE USE OR DEVELOPMENT OF REAL
11	PROPERTY; AND	FOR OTHER PURPOSES.
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13		
14		Subtitle
15	TO CLARI	FY THE REQUIREMENTS FOR AMENDING
16	COVENANT	'S RESTRICTING THE USE OR
17	DEVELOPM	ENT OF REAL PROPERTY.
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19		
20	BE IT ENACTED BY THE GENE	RAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22	SECTION 1. DO NOT	CODIFY. Findings and legislative intent.
23	(a) The General As:	sembly finds that:
24	(1) The decis	sion of the Arkansas Court of Appeals in Rausch
25	<u>Coleman Homes, LLC v. Bre</u>	ch, 2009 Ark. App. 225, 303 S.W.3d 456 (Ark. App.
26	2009) unduly restricts the	e use and development of real property; and
27	<u>(2) It is in</u>	the best interests of the people of the State of
28	<u>Arkansas to foster the ab</u>	ility of landowners to amend private covenants to
29	obtain the best possible t	use of the landowners' real property.
30	(b) It is the inter	nt 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. Arkansa	s Code § 18-12-103 is amended to read as follows:
36	18-12-103. Restric	tive covenants.



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1	(a) As used in this section, "restrictive covenant" means a		
2	restriction on the use or development of real property regardless of whether		
3	the restriction is created by a covenant in a deed or bill of assurance, or		
4	by any other instrument.		
5	(b) No An instrument creating a restrictive or protective covenants		
6	affecting the use of real property nor any instrument purporting to restrict		
7	the use of real property shall be valid or covenant is not effective against		
8	a subsequent purchaser or owner of to restrict the use or development of real		
9	property unless the restrictive or protective covenants or instrument		
10	purporting to restrict the use <u>or development</u> of the real property is		
11	executed by the owners of the real property and recorded in the office of the		
12	recorder of the county in which the property is located.		
13	(c) If the instrument creating a restrictive covenant contains		
14	separate sections stating the duration of the covenant and the requirements		
15	for amending the covenant, the section or sections stating the duration of		
16	the covenant shall be read independently of the section or sections stating		
17	the requirements for amending the covenant so that the duration of the		
18	covenant does not limit the ability to amend a restrictive covenant at any		
19	time.		
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21	<u>/s/Vines</u>		
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