

Government of the District of Columbia

UNIFORM LAW COMMISSION



January 12, 2024

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
The John A. Wilson Building,
1350 Pennsylvania Avenue, NW
Washington, DC 20004

RE: Request for introduction of the Uniform Unlawful Restrictions in Land Records Act of 2024.

Dear Chairman Mendelson:

Pursuant to Rule 401(b)(1) of the Rules of Organization and Procedure for the Council, this is to request, on behalf of the District of Columbia Uniform Law Commission, that you introduce the proposed “Uniform Unlawful Restrictions in Land Records Act of 2024.” The Uniform Act was approved by the National Conference of Commissioners on Uniform State Laws last year. District of Columbia Commissioner Brian Flowers was co-chair of the Drafting Committee.

The Uniform Act addresses the lingering effects of discrimination in housing on the basis of race, color, national origin, and religion. Although these restrictive covenants are legally void and unenforceable, they are still on the property records. The Act allows current homeowners to record amendments eliminating these discriminatory restrictions. The Act also empowers common interest communities to take similar actions. If an individual unit owner or the association’s governing body itself becomes aware of any such restrictions, the Act permits the governing body to record an amendment removing the restriction, without a vote of the association as a whole. This vote, by the governing board of a common interest community, would override any provision of other law or of any of the governing instruments that would require a vote of the entire association in order to amend or eliminate a governing document which contains an illegal restriction. At the same time, and importantly, the Act preserves the chain of title and does not compromise the insurability of the title for later transfers of the property.

The Uniform Act has received broad support from the real estate industry. Several key real estate industry participants, including the American Land Title Association, have

endorsed the Act because it introduces much-needed uniformity and provides clear guidance to state and county recording offices.

A proposed “Uniform Unlawful Restrictions in Land Records Act .” is being filed with this letter. In addition, the following documents have been filed: (1) a summary of the Uniform Act; (2) a statement as to why the Uniform Act should be adopted; and (3) the official version of the Uniform Unlawful Restrictions in Land Records Act with comments.

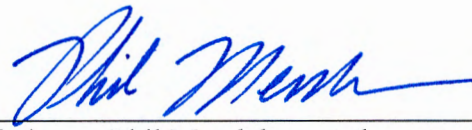
Brian and I would be pleased to answer any questions and to provide any additional information requested.

Sincerely,

A handwritten signature in blue ink that reads "James C. McKay, Jr." The signature is written in a cursive style with a large initial 'J'.

James C. McKay, Jr.
Chair
D.C. Uniform Law Commission

cc: Uniform Law Commissioners



Chairman Phil Mendelson at the request of the
District of Columbia Uniform Law Commission

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To enact the Uniform Unlawful Restrictions in Land Records Act; to allow homeowners to remove unlawful restrictive covenants from the deeds to their homes and for condominiums and other homeowner associations to remove unlawful restrictive covenants from their governing documents; to permit the homeowner or association to fill out an amendment form, a sample of which is provided in the Act, and record the amendment to their title to effectively remove the unlawful restriction; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Uniform Unlawful Restrictions in Land Records Act of 2024”.

Sec. 1. Short title.

This act may be cited as the Uniform Unlawful Restrictions in Land Records Act.

Section 2. Definitions.

In this act:

(1) “Amendment” means a document that removes an unlawful restriction.

(2) “District” means the District of Columbia.

(3) “Document” means a record recorded or eligible to be recorded in land records.

(4) “Governing instrument” means a document recorded in land records that:

33 (A) Establishes a governing body responsible for management of common
34 areas or facilities used by more than one owner of a property interest affected by the document;
35 and

36 (B) Requires contribution, enforceable by a lien on a separate property
37 interest, of a share of taxes, insurance premiums, maintenance, or improvement of, or services or
38 other expenses for the common benefit of, the real property described in the document.

39 (5) "Index" means a system that enables a search for a document in land records.

40 (6) "Land records" means documents and indexes maintained by a recorder.

41 (7) "Owner" means a person that has a fee interest in real property.

42 (8) "Person" means an individual, estate, business or nonprofit entity, government
43 or governmental subdivision, agency, or instrumentality, or other legal entity.

44 (9) "Record", used as a noun, means information:

45 (A) Inscribed on a tangible medium; or

46 (B) Stored in an electronic or other medium and retrievable in perceivable
47 form.

48 (10) "Recorder" means the District of Columbia Recorder of Deeds.

49 (11) "Remove" means eliminate any apparent or purportedly continuing effect on
50 title to real property.

51 (12) "Unlawful restriction" means a prohibition, restriction, covenant, or
52 condition in a document that purports to interfere with or restrict the transfer, use, or occupancy
53 of real property:

54 (A) On the basis of race, color, religion, national origin, sex, familial
55 status, disability, or other personal characteristics; and

56 (B) In violation of other law of the District or federal law.

57 Section 3. Amendment by owner.

58 Except with respect to property to which Section 4 applies, an owner of real property
59 subject to an unlawful restriction may submit to the Recorder for recordation in the land records
60 an amendment to remove the unlawful restriction, but only as to the owner's property.

61 Section 4. Amendment by association of owners.

62 (a) The governing body of an association of owners identified in a governing instrument
63 may, without a vote of the members of the association, amend the governing instrument to
64 remove an unlawful restriction.

65 (b) A member of an association of owners may request, in a record that sufficiently
66 identifies an unlawful restriction in the governing instrument, that the governing body exercise
67 its authority under subsection (a). Not later than 90 days after the governing body receives the
68 request, the governing body shall determine reasonably and in good faith whether the governing
69 instrument includes the unlawful restriction. If the governing body determines the governing
70 instrument includes the unlawful restriction, the governing body not later than 90 days after the
71 determination shall amend the governing instrument to remove the unlawful restriction.

72 (c) Notwithstanding any provision of the governing instrument or other law of the
73 District, the governing body may execute an amendment under this section.

74 (d) An amendment under this section is effective notwithstanding any provision of the
75 governing instrument or other law of the District that requires a vote of the members of the
76 association of owners to amend the governing instrument.

77 Section 5. Requirements and limitations of amendment.

78 (a) An amendment under this act must identify the owner, the real property affected, and
79 the document containing the unlawful restriction. The amendment must include a conspicuous
80 statement in substantially the following form:

81 “This amendment removes from this deed or other document affecting title to real property an
82 unlawful restriction as defined under the Uniform Unlawful Restrictions in Land Records Act.
83 This amendment does not affect the validity or enforceability of a restriction that is not an
84 unlawful restriction.”

85 (b) The amendment must be executed and acknowledged in the manner required for
86 recordation of a document in the land records. The amendment must be recorded in the land
87 records of the District.

88 (c) The amendment does not affect the validity or enforceability of any restriction that is
89 not an unlawful restriction.

90 (d) The amendment or a future conveyance of the affected real property is not a
91 republication of a restriction that otherwise would expire by passage of time under other law of
92 this state the District.

93 Section 6. Optional form for amendment by owner.

94 The following form may be used by an owner to make an amendment under Section 3:

95 “Amendment by Owner to Remove an Unlawful Restriction

96 “This Amendment is recorded under the Uniform Unlawful Restrictions in Land Records
97 Act of 2024 by an Owner of an interest in real property subject to an unlawful restriction as
98 defined under the Act.

99 “(1) Name of Owner:

100 “(2) Owner’s property that is subject to the unlawful restriction is described as follows:

101 “Address:
102 “Legal Description:
103 “(3) This Amendment amends the following document:
104 “Title of document being amended:
105 “Recording date of document being amended:
106 “Recording information (book/page or instrument number):
107 “This Amendment removes from the document described in paragraph (3) all unlawful
108 restrictions as defined under the Act. Removal of an unlawful restriction through this
109 Amendment does not affect the validity and enforceability of any other restriction that is not an
110 unlawful restriction as defined under the Act, at the time of filing this Amendment. This
111 Amendment is not effective if the property is subject to a governing instrument as defined under
112 the Act.
113 “Owner’s Signature Date
114 “Notary Acknowledgment Witnesses (if required)]”

115 Section 7. Duty and liability of Recorder.

116 (a) The Recorder shall record an amendment submitted under this act, add the
117 amendment to the index, and cross reference the amendment to the document containing the
118 unlawful restriction.

119 (b) The Recorder and the District are not liable for recording an amendment under this
120 act.

121 Section 8. Uniformity of application and construction.

122 In applying and construing this uniform act, a court shall consider the promotion of
123 uniformity of the law among jurisdictions that enact it.

124 Section 9. Relation to Electronic Signatures in Global and National Commerce Act.

125 This act modifies, limits, or supersedes the Electronic Signatures in Global and National
126 Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. §
127 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. § 7003(b).

128 Sec.10. Fiscal impact statement.

129 The Council adopts the attached fiscal impact statement as the fiscal impact statement
130 required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December
131 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

132 Sec. 11. Effective date.

133 This act shall take effect following approval by the Mayor (or in the event of veto by the
134 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
135 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
136 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
137 Columbia Register.