

HOUSE BILL No. 1314

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-21-15; IC 34-30-2-136.9.

Synopsis: Recorded discriminatory covenants. Permits a person to file a statement or notice that a recorded discriminatory covenant is invalid and unenforceable.

Effective: July 1, 2021.

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January 14, 2021, read first time and referred to Committee on Judiciary.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1314

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-21-15 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]:

4 **Chapter 15. Discriminatory Restrictive Covenants**

5 **Sec. 1. As used in this chapter, "discriminatory restrictive**
6 **covenant" means any restrictive covenant on real property which,**
7 **if enforced, would violate:**

8 (1) **the prohibition in the federal Fair Housing Act (42 U.S.C.**
9 **3601 et seq.) against discrimination on the basis of race, color,**
10 **sex, religion, familial status, or national origin; or**

11 (2) **the equal protection clause of the Constitution of the**
12 **United States under Shelley v. Kraemer, 334 U.S. 1 (1948)**
13 **(holding enforcement of a racially restrictive covenant**
14 **violates the equal protection clause).**

15 **Sec. 2. A person who discovers a recorded discriminatory**
16 **restrictive covenant may:**

17 (1) **with the consent of all parties to a real estate transaction,**



1 include in any deed, mortgage, or other instrument filed for
 2 recording in connection with the transaction a statement that
 3 the discriminatory restrictive covenant is invalid and
 4 unenforceable; or

5 (2) prepare and record a separate notice, cross-referenced to
 6 the discriminatory restrictive covenant, stating that the
 7 discriminatory restrictive covenant is invalid and
 8 unenforceable.

9 **Sec. 3. The statement or notice described in section 2 of this**
 10 **chapter shall be in a form substantially consistent with the**
 11 **following:**

12 "The chain of title for the real property described herein
 13 contains a restrictive covenant that, if enforced, would
 14 discriminate against individuals based upon their race, color,
 15 sex, religion, familial status, or national origin. The covenant
 16 is invalid, unenforceable, and antithetical to American values
 17 of equal justice and equality under the law."

18 **Sec. 4. A person who in good faith:**

19 (1) prepares or causes to be prepared; or

20 (2) records or causes to be recorded;

21 a statement or notice under section 2 of this chapter is immune
 22 from liability for incorrectly stating that the restrictive covenant
 23 is discriminatory.

24 SECTION 2. IC 34-30-2-136.9 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2021]: **Sec. 136.9. IC 32-21-15-4 (Concerning**
 27 **a good faith claim that a restrictive covenant is discriminatory).**

