

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 ENROLLED ACT No. 1314

AN ACT to amend the Indiana Code concerning property.

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

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

Chapter 15. Discriminatory Restrictive Covenants

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

- (1) the prohibition in the federal Fair Housing Act (42 U.S.C. 3601 et seq.) against discrimination on the basis of race, color, sex, religion, familial status, disability, or national origin; or
- (2) the equal protection clause of the Constitution of the United States under *Shelley v. Kraemer*, 334 U.S. 1 (1948) (holding enforcement of a racially restrictive covenant violates the equal protection clause).

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

- (1) with the consent of all parties to a real estate transaction, include in any deed, mortgage, or other instrument filed for recording in connection with the transaction a statement that the discriminatory restrictive covenant is invalid and unenforceable; or
- (2) prepare and record a separate notice, cross-referenced to

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the discriminatory restrictive covenant, stating that the discriminatory restrictive covenant is invalid and unenforceable.

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

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

Sec. 4. A person who in good faith:

- (1) prepares or causes to be prepared; or
- (2) records or causes to be recorded;

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

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



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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