

RESTRICTIVE COVENANTS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill enacts provisions regarding certain restrictive covenants relating to real property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits the enforcement of a restrictive covenant in a previously recorded written instrument relating to real property;
- ▶ allows a property owner to record a modification document declaring a restrictive covenant void;
- ▶ allows a condominium or community association to amend the association's governing documents to remove a discriminatory restrictive covenant; and
- ▶ prevents a county recorder from charging a fee for recording a modification document.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-21-6.1, Utah Code Annotated 1953

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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-21-6.1** is enacted to read:

57-21-6.1. Discriminatory housing practices regarding real estate -- Existing real property contract provisions.

(1) As used in this section:

(a) "Association" means the same as that term is defined in Section [57-8-3](#) or [57-8a-102](#).

(b) "Board" means:

(i) a management committee as defined in Section [57-8-3](#); or

(ii) the same as that term is defined in Section [57-8a-102](#).

(c) "Governing documents" means the same as that term is defined in Section [57-8-3](#) or [57-8a-102](#).

(2) Any provision in a previously recorded written instrument relating to real property that expresses any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, source of income, disability, sexual orientation, or gender identity is void.

(3) It is a discriminatory housing practice to enforce a provision described in Subsection (2).

(4) Except as provided in Subsection (5), a person with a fee simple interest in the real property that is subject to the recorded written instrument described in Subsection (2) may record with the county recorder a modification document on the real property in the following form:

"Any provision in a previously recorded written instrument that expresses any preference, limitation, or discrimination based on race, color, religion, sex, national origin, familial status, source of income, disability, sexual orientation, or gender identity is void under Utah Code Section [57-21-6.1](#)."

56 (5) (a) If a written instrument described in Subsection (2) is a governing document, an
57 association may, in accordance with this section, amend the association's governing documents
58 to remove a provision described in Subsection (2).

59 (b) (i) If an owner believes an association's governing documents include a provision
60 described in Subsection (2), the owner may submit a written request to remove the provision.

61 (ii) Within 90 days after the day on which the board receives a written request, the
62 board:

63 (A) shall investigate a claim that the association's governing documents include a
64 provision described in Subsection (2); and

65 (B) if the board determines the association's governing documents include a provision
66 described in Subsection (2), may remove the provision from the governing documents by
67 amending the association's governing documents through a majority vote of the board,
68 regardless of any contrary provision in the association's governing documents.

69 (c) Any association officer may execute the amendment to remove the provision
70 described in Subsection (2) from the governing documents.

71 (d) Notwithstanding any contrary provision in the association's governing documents,
72 an amendment under this subsection does not require approval of the association's members.

73 (6) A provision in a recorded written instrument that is void under this section does not
74 affect the validity of the remainder of the previously recorded written instrument.

75 (7) An owner who records or causes to be recorded a modification document under
76 Subsection (4) that contains modifications not authorized by this section is solely liable for the
77 recordation.

78 (8) A county recorder may not charge a fee for recording a modification document
79 under this section.