



House of Representatives

General Assembly

File No. 582

January Session, 2021

Substitute House Bill No. 6665

House of Representatives, April 22, 2021

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE REMOVAL OF RESTRICTIVE COVENANTS BASED ON RACE AND ELIMINATION OF THE RACE DESIGNATION ON MARRIAGE LICENSES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2021*) (a) For purposes of this
2 section, "unlawful restrictive covenant" means a covenant or other
3 provision in an instrument affecting the title to real property that
4 purports to restrict ownership or occupancy of such real property on the
5 basis of race.

6 (b) Any unlawful restrictive covenant contained in any instrument
7 affecting title to real property that is recorded in the land records of any
8 municipality shall be void. If an unlawful restrictive covenant is
9 contained in any instrument affecting title to real property that also
10 contains any other covenant or provision that is not an unlawful
11 restrictive covenant, the validity and enforceability of the remaining
12 covenants or provisions, as well as the validity of the recorded
13 instrument itself, shall not be affected by the voiding of the unlawful

14 restrictive covenant.

15 (c) Any owner of real property who identifies an unlawful restrictive
16 covenant in an instrument recorded on the land records that relates to
17 real property owned by such person may file either an affidavit
18 pursuant to section 47-12a of the general statutes, as amended by this
19 act, or a form described in subsection (f) of this section, with the town
20 clerk in the municipality where the real property is located, identifying
21 the existence of such unlawful restrictive covenant. Such affidavit or
22 form shall (1) be in the form required by section 47-12a of the general
23 statutes, as amended by this act; (2) identify the volume and page of the
24 land records for the instrument or instruments that contain the unlawful
25 restrictive covenant; and (3) state that the affidavit or form is being filed
26 to carry out the provisions of this section. Failure to file such affidavit or
27 form shall not otherwise affect the invalidity of the unlawful restrictive
28 covenant under this section. The town clerk shall record such affidavit
29 or form, and, to the extent practicable, notate the indices to the land
30 records accordingly to reflect the invalidity of the unlawful restrictive
31 covenant. No town clerk may assess any recording fee for the filing of
32 such affidavit or form.

33 (d) A reference in any recorded instrument affecting title to real
34 property, or in any other document, including, but not limited to, a
35 report, opinion, contract or insurance policy, to covenants, conditions,
36 restrictions or provisions contained in an instrument previously
37 recorded in the land records, shall not constitute a revival, reinstatement
38 or republication of an unlawful restrictive covenant. Any affidavit or
39 other form recorded in connection with this section is not an
40 encumbrance on the real property.

41 (e) If a person causes an affidavit or a form to be recorded under
42 subsection (c) of this section that is not in fact authorized by this section,
43 the town clerk and the municipality shall not be liable for any damages
44 resulting from the recording of the affidavit or form pursuant to this
45 section. Any liability that may result by a recording that is not
46 authorized in fact by subsection (c) of this section shall be the sole

47 responsibility of the person who caused the affidavit or form to be
48 recorded.

49 (f) Not later than December 1, 2021, the Office of Policy and
50 Management shall develop a standardized form for the purposes of
51 subsection (c) of this section. The town clerk in each municipality shall
52 (1) make such form available on the Internet web site of the municipality
53 and in the area of the town clerk's office where land records are kept,
54 and (2) post a notice informing the public of the provisions of this
55 section in the area of the town clerk's office where land records are kept.

56 Sec. 2. Subsection (b) of section 47-12a of the general statutes is
57 repealed and the following is substituted in lieu thereof (*Effective July 1,*
58 *2021*):

59 (b) The affidavits provided for in this section may relate to the
60 following matters: Age, sex, birth, death, capacity, relationship, family
61 history, heirship, names, identity of parties, marital status, possession
62 or adverse possession, adverse use, residence, service in the armed
63 forces, conflicts and ambiguities in description of land in recorded
64 instruments, the happening of any condition or event which may
65 terminate an estate or interest, unlawful restrictive covenants and any
66 other state of facts affecting title to real property.

67 Sec. 3. Section 46b-25 of the general statutes is repealed and the
68 following is substituted in lieu thereof (*Effective October 1, 2021*):

69 No license may be issued by the registrar until both persons have
70 appeared before the registrar and made application for a license. The
71 registrar shall issue a license to any two persons eligible to marry under
72 this chapter. The license shall be completed in its entirety, dated, signed
73 and sworn to by each applicant and shall state each applicant's name,
74 age, [race,] birthplace, residence, whether single, widowed or divorced
75 and whether under the supervision or control of a conservator or
76 guardian. The Social Security numbers of both persons shall be recorded
77 in the "administrative purposes" section of the license. If the license is
78 signed and sworn to by the applicants on different dates, the later date

79 shall be deemed the date of application.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2021</i>	New section
Sec. 2	<i>July 1, 2021</i>	47-12a(b)
Sec. 3	<i>October 1, 2021</i>	46b-25

Statement of Legislative Commissioners:

Section 1(e) was rewritten for clarity and consistency.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill voids unlawful restrictive covenants from real property and does not result in a fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6665*****AN ACT CONCERNING THE REMOVAL OF RESTRICTIVE COVENANTS BASED ON RACE AND ELIMINATION OF THE RACE DESIGNATION ON MARRIAGE LICENSES.*****SUMMARY**

This bill voids “unlawful restrictive covenants,” which are covenants or provisions in instruments affecting the title to real property that purport to restrict ownership or occupancy based on race. The bill does not affect any other property covenant or provision or its validity, as long as it is not unlawfully restrictive.

The bill requires town clerks, after receiving a form or affidavit notifying them of an unlawful restrictive covenant, to record it and to the extent practicable notate the land records. The bill correspondingly requires the Office of Policy and Management, by December 1, 2021, to develop a standardized form to report unlawful restrictive covenants to town clerks, and makes a conforming change allowing the affidavits. Under the bill, each town clerk must (1) make the form available on the municipality’s website and in the town clerk’s office where land records are kept and (2) post a notice informing the public of the bill’s provisions in the town clerk’s land records office.

By law, marriage licenses must include certain demographic information on the applicants (i.e., the people getting married). The bill removes “race” as one of those categories (§ 3).

EFFECTIVE DATE: July 1, 2021, except the marriage license provisions are effective October 1, 2021.

§§ 1 & 2 – UNLAWFUL RESTRICTIVE COVENANTS***Recording in Land Records***

Under the bill, a real property owner who identifies an unlawful restrictive covenant in an instrument recorded on the land records may file a form or affidavit identifying it with a town clerk. The affidavit or form must:

1. be in the form existing law requires of other affidavits relating to land titles,
2. identify the land record volume and page that the instrument containing the unlawful covenant is on; and
3. state the affidavit or form is being filed in accordance with the bill.

To the extent practicable, a town clerk receiving one of these forms or affidavits must notate the indices to the land records to reflect the covenant's invalidity. Under the bill, the town clerk is prohibited from assessing a recording fee for this.

An unlawful restrictive covenant is invalid under the bill regardless of whether a property owner files the form or affidavit described above.

Additionally, the bill deems that any references to an unlawful restrictive covenant in recorded instruments do not constitute its revival, reinstatement, or republication. This applies to instruments affecting real title or any other documents affecting land records, including reports, opinions, contracts, or insurance policies. An affidavit or form recorded under the bill's provision does not encumber the property.

Liability

A town clerk or municipality is not liable under the bill for any damages resulting from recording an affidavit or form unauthorized under the bill's provisions. The bill instead makes any liability from an unauthorized recording the sole responsibility of the person who caused the affidavit or form to be recorded.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/06/2021)