



PA 21-173—sHB 6665

Judiciary Committee

AN ACT CONCERNING THE REMOVAL OF RESTRICTIONS ON OWNERSHIP OR OCCUPANCY OF REAL PROPERTY BASED ON RACE AND ELIMINATION OF THE RACE DESIGNATION ON MARRIAGE LICENSES

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

The act requires town clerks, after receiving a form or an affidavit notifying them of an unlawful restrictive covenant, to record it, and to the extent practicable, notate the land records. The act 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 act, 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 act’s provisions in the town clerk’s land records office.

The act also provides a process for condominium and common interest community unit owners and their associations’ boards of directors or executive boards, as applicable, to remove provisions in association declarations that restrict ownership or occupancy by race.

Lastly, the act removes race from the list of demographic information applicants must provide on marriage licenses.

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

UNLAWFUL RESTRICTIVE COVENANTS

Recording in Land Records

Under the act, a real property owner who identifies an unlawful restrictive covenant in an instrument recorded on 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 for 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 that the affidavit or form is being filed in accordance with the act.

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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 act, the town clerk may not assess a recording fee for this. However, the unlawfully restrictive covenant is invalid regardless of whether the form or affidavit is filed.

Additionally, the act 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 act's provision does not encumber the property.

Liability

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

CONDOMINIUM AND COMMON INTEREST OWNERSHIP ASSOCIATIONS

Generally, a "declaration" is an instrument that creates and governs a condominium or common interest community (CGS §§ 47-70 & -202). The act allows a condominium association board of directors, or a common interest association executive board, by a majority vote, to remove a provision from the association's declaration that purports to restrict ownership or occupancy by race. For condominium associations governed by the Condominium Act, the act specifies that no additional vote by the unit owners is required. For common interest associations (including condominium associations) governed by the Common Interest Ownership Act, the vote must be at a meeting held in accordance with existing law.

The act also requires boards to hold a meeting, within 90 days of receiving a written request from a unit owner to remove a provision in the association's declaration that restricts ownership or occupancy by race, to determine whether the provision exists and should be removed according to the procedures described above.

BACKGROUND

Related Act

PA 21-26, § 7, requires the Department of Public Health commissioner, by January 1, 2022, to revise marriage license applications and certificates to remove references to a spouse's race or ethnicity and any designation of such race or ethnicity.

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