

ENGROSSED LEGISLATIVE BILL 21

Introduced by Cavanaugh, J., 9; Conrad, 46.

A BILL FOR AN ACT relating to real property; to adopt the Uniform Unlawful Restrictions in Land Records Act.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 9 of this act shall be known and may be cited as the Uniform Unlawful Restrictions in Land Records Act.

Sec. 2. In the Uniform Unlawful Restrictions in Land Records Act:

(1) Amendment means a document that removes an unlawful restriction.

(2) Document means a record recorded or eligible to be recorded in land records.

(3) Governing instrument means a document recorded in land records that:

(A) establishes a governing body responsible for management of common areas or facilities used by more than one owner of a property interest affected by the document; and

(B) requires contribution, enforceable by a lien on a separate property interest, of a share of taxes, insurance premiums, maintenance, or improvement of, or services or other expenses for the common benefit of, the real property described in the document.

(4) Index means a system that enables a search for a document in land records.

(5) Land records means documents and indexes maintained by a recorder.

(6) Owner means a person that has a fee interest in real property.

(7) Person means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(8) Record, used as a noun, means information:

(A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium and retrievable in perceivable

form.

(9) Recorder means an officer authorized under other law of this state to accept a document for recordation in land records.

(10) Remove means eliminate any apparent or purportedly continuing effect on title to real property.

(11) Unlawful restriction means a prohibition, restriction, covenant, or condition in a document that purports to interfere with or restrict the transfer, use, or occupancy of real property:

(A) on the basis of race, color, religion, national origin, sex, familial status, disability, or other personal characteristics; and

(B) in violation of other law of this state or federal law.

Sec. 3. Except with respect to property to which section 4 of this act applies, an owner of real property subject to an unlawful restriction may submit to the recorder for recordation in the land records an amendment to remove the unlawful restriction, but only as to the owner's property.

Sec. 4. (a) The governing body of an association of owners identified in a governing instrument may, without a vote of the members of the association, amend the governing instrument to remove an unlawful restriction.

(b) A member of an association of owners may request, in a record that sufficiently identifies an unlawful restriction in the governing instrument, that the governing body exercise its authority under subsection (a) of this section. Not later than ninety days after the governing body receives the request, the governing body shall determine reasonably and in good faith whether the governing instrument includes the unlawful restriction. If the governing body determines the governing instrument includes the unlawful restriction, the governing body not later than ninety days after the determination shall amend the governing instrument to remove the unlawful restriction.

(c) Notwithstanding any provision of the governing instrument or other law of this state, the governing body may execute an amendment under this section.

(d) An amendment under this section is effective notwithstanding any

provision of the governing instrument or other law of this state that requires a vote of the members of the association of owners to amend the governing instrument.

Sec. 5. (a) An amendment under the Uniform Unlawful Restrictions in Land Records Act must identify the owner, the real property affected, and the document containing the unlawful restriction. The amendment must include a conspicuous statement in substantially the following form:

"This amendment removes from this deed or other document affecting title to real property an unlawful restriction as defined under the Uniform Unlawful Restrictions in Land Records Act. This amendment does not affect the validity or enforceability of a restriction that is not an unlawful restriction."

(b) The amendment must be executed and acknowledged in the manner required for recordation of a document in the land records. The amendment must be recorded in the land records of each county in which the document containing the unlawful restriction is recorded.

(c) The amendment does not affect the validity or enforceability of any restriction that is not an unlawful restriction.

(d) The amendment or a future conveyance of the affected real property is not a republication of a restriction that otherwise would expire by passage of time under other law of this state.

Sec. 6. The following form may be used by an owner to make an amendment under section 3 of this act:

Amendment by Owner to Remove an Unlawful Restriction

This amendment is recorded under the Uniform Unlawful Restrictions in Land Records Act (the act), by an owner of an interest in real property subject to an unlawful restriction as defined under the act.

(1) Name of owner:

(2) Owner's property that is subject to the unlawful restriction is described as follows:

Address:

Legal Description:

(3) This amendment amends the following document:

Title of document being amended:

Recording date of document being amended:

Recording information (book/page or instrument number):

This amendment removes from the document described in paragraph (3) all unlawful restrictions as defined under the act. Removal of an unlawful restriction through this amendment does not affect the validity and enforceability of any other restriction that is not an unlawful restriction as defined under the act, at the time of filing this amendment. This amendment is not effective if the property is subject to a governing instrument as defined under the act.

.....
Owner's Signature Date

This document was acknowledged before me this day of, 20...., by (name of person acknowledged).

..... (Seal)
Notary Public

Sec. 7. (a) The recorder shall record an amendment submitted under the Uniform Unlawful Restrictions in Land Records Act, add the amendment to the index, and cross reference the amendment to the document containing the unlawful restriction.

(b) The recorder and the recorder's jurisdiction are not liable for recording an amendment under the Uniform Unlawful Restrictions in Land Records Act.

Sec. 8. In applying and construing the Uniform Unlawful Restrictions in Land Records Act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

Sec. 9. The Uniform Unlawful Restrictions in Land Records Act modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C.

7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 21 was passed by the One Hundred Ninth Legislature of Nebraska at its First Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR