

HOUSE BILL No. 6514

November 27, 2018, Introduced by Rep. Singh and referred to the Committee on Judiciary.

A bill to prohibit the recording of deeds or other instruments relating to real property that contain certain restrictive covenants or conditions; to make such restrictions unenforceable; and to provide remedies with respect to those instruments.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "prohibited restrictive covenants act".

3 Sec. 2. As used in this act:

4 (a) "Familial status" means that term as defined in section
5 103 of the Elliott-Larsen civil rights act, 1976 PA 453, MCL
6 37.2103.

7 (b) "Person" means an individual, partnership, corporation,
8 association, governmental entity, or other legal entity.

9 Sec. 3. (1) A person shall not record in the records of the

1 register of deeds a deed or other instrument that contains a
2 restriction, covenant, or condition, including a right of entry or
3 possibility of reverter, that directly or indirectly prohibits or
4 limits the conveyance, encumbrance, rental, occupancy, or use of
5 real property on the basis of race, sex, national origin, familial
6 status, sexual orientation, or gender identity, or on the basis of
7 an individual having a sensory, mental, or physical disability or
8 using a trained dog guide or service animal because the individual
9 is blind or deaf or has a physical disability.

10 (2) A register of deeds shall not record a deed or other
11 instrument described in subsection (1).

12 Sec. 4. (1) A restriction, covenant, or condition, including a
13 right of entry or possibility of reverter, that directly or
14 indirectly prohibits or limits the conveyance, encumbrance, rental,
15 occupancy, or use of real property on the basis of race, sex,
16 national origin, familial status, sexual orientation, or gender
17 identity, or on the basis of an individual having a sensory,
18 mental, or physical disability or using a trained dog guide or
19 service animal because the individual is blind or deaf or has a
20 physical disability, is void and has no legal effect.

21 (2) A court or other person shall not enforce a restriction,
22 covenant, or condition described in subsection (1).

23 Sec. 5. (1) A homeowners' or property owners' association,
24 acting through a simple majority vote of its board, may amend the
25 association's governing documents for the purpose of removing any
26 restriction, covenant, or condition, including a right of entry or
27 possibility of reverter, that directly or indirectly prohibits or

1 limits the conveyance, encumbrance, rental, occupancy, or use of
2 real property on the basis of race, sex, national origin, familial
3 status, sexual orientation, or gender identity, or on the basis of
4 an individual having a sensory, mental, or physical disability or
5 using a trained dog guide or service animal because the individual
6 is blind or deaf or has a physical disability.

7 (2) If the board of a homeowners' or property owners'
8 association receives a written request by a member of the
9 association that the board exercise its amending authority under
10 subsection (1), the board shall, within a reasonable time, amend
11 the governing documents, as provided under this section.

12 (3) Board action under this section does not require the vote
13 or approval of the property owners.

14 (4) An amendment under subsection (1) may be executed by any
15 board officer.

16 (5) An amendment under subsection (1) must be recorded with
17 the register of deeds for the county where the property is located
18 and state the following:

19 "This amendment strikes from these restrictions, covenants, and
20 conditions the provisions that are prohibited under the prohibited
21 restrictive covenants act. Specifically, this amendment strikes the
22 provisions that directly or indirectly prohibit or limit the
23 conveyance, encumbrance, rental, occupancy, or use of the property
24 on the basis of race, sex, national origin, familial status, sexual
25 orientation, or gender identity, or on the basis of an individual
26 having a sensory, mental, or physical disability or using a trained
27 dog guide or service animal because the individual is blind or deaf

1 or has a physical disability."

2 Sec. 6. (1) A property owner may record in the records of the
3 register of deeds for the county where the property is located an
4 amended deed or other instrument to remove any restriction,
5 covenant, or condition, including a right of entry or possibility
6 of reverter, that directly or indirectly prohibits or limits the
7 conveyance, encumbrance, rental, occupancy, or use of real property
8 on the basis of race, sex, national origin, familial status, sexual
9 orientation, or gender identity, or on the basis of an individual
10 having a sensory, mental, or physical disability or using a trained
11 dog guide or service animal because the individual is blind or deaf
12 or has a physical disability.

13 (2) An amended deed or other instrument under this section may
14 be executed solely by the property owner. The deed or instrument
15 must be executed and acknowledged in the manner required by law.

16 (3) An amended deed or other instrument under this section
17 must state the following:

18 "This amended instrument strikes from an original instrument
19 restrictions, covenants, or conditions that are prohibited under
20 the prohibited restrictive covenants act. Specifically, this
21 amended instrument strikes the provisions that directly or
22 indirectly prohibit or limit the conveyance, encumbrance, rental,
23 occupancy, or use of the property on the basis of race, sex,
24 national origin, familial status, sexual orientation, or gender
25 identity, or on the basis of an individual having a sensory,
26 mental, or physical disability or using a trained dog guide or
27 service animal because the individual is blind or deaf or has a

1 physical disability."

2 Sec. 7. (1) If a deed or other instrument contains a provision
3 that is prohibited under this act, the owner, occupant, or tenant
4 of the property that is subject to the provision or any member of
5 the board of a homeowners' or property owners' association that
6 would have a right to enforce such a provision may bring an action
7 in the circuit court in the county in which the property is located
8 to have the provision stricken from the records of the register of
9 deeds.

10 (2) An action under this section must be brought as an in rem,
11 declaratory judgment action and the title of the action must be the
12 description of the property. The owners, occupants, or tenants of
13 the property or any part of the property are necessary parties to
14 the action.

15 (3) In an action under this section, if the court finds that
16 any provisions of the deed or instrument are prohibited under this
17 act, it shall enter an order striking the provisions from the
18 records of the register of deeds and eliminating the provisions
19 from the deed or other instrument for the property described in the
20 complaint.

21 Sec. 8. A person that refuses, before recording, to remove
22 from a deed or other instrument a restriction, covenant, or
23 condition, including a right of entry or possibility of reverter,
24 that directly or indirectly prohibits or limits the conveyance,
25 encumbrance, rental, occupancy, or use of real property on the
26 basis of race, sex, national origin, familial status, sexual
27 orientation, or gender identity, or on the basis of an individual

1 having a sensory, mental, or physical disability or using a trained
2 dog guide or service animal because the individual is blind or deaf
3 or has a physical disability is liable for any damage sustained by
4 another person because of the refusal.

5 Sec. 9. (1) Except as otherwise provided in section 5(2), this
6 act does not create a duty on the part of an owner, occupant,
7 tenant, association, board, or member or officer of a board to
8 amend a recorded deed or instrument or a governing document as
9 provided in this act, or to bring an action as authorized under
10 this act.

11 (2) An owner, occupant, tenant, association, board, or member
12 or officer of a board is not liable for failing to amend a recorded
13 deed or instrument or a governing document or to pursue an action
14 in court as authorized under this act.

15 (3) This act does not limit any right or remedy under the
16 Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to
17 37.2804, or any other law of this state.