

HOUSE BILL NO. HB0091

Removal of unenforceable property covenants.

Sponsored by: Representative(s) Duncan, Baker, Banks,
Blackburn, Connolly, Kinner, Newsome, Olsen
and Zwonitzer and Senator(s) Driskill,
Nethercott and Pappas

A BILL

for

1 AN ACT relating to real property and conveyances;
2 establishing procedures for removing unenforceable
3 restrictive covenants for real property; specifying what
4 restrictive covenants are unenforceable; providing immunity
5 from civil liability as specified; authorizing a civil
6 action for new instruments recorded to remove an
7 enforceable restrictive covenant; and providing for an
8 effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 34-1-154 through 34-1-156 are created
13 to read:

14

1 **34-1-154. Removal of restrictive covenants in**
2 **violation of law.**

3
4 (a) Any person who holds an ownership interest of
5 record in real property in this state, or any attorney,
6 title insurance company or title insurance agent authorized
7 to do business in this state and acting on behalf of a
8 person with an ownership interest in real property in this
9 state, may record a new instrument to remove any
10 restrictive covenant contained in any conveyance
11 encumbering or otherwise affecting the transfer or sale of,
12 or any interest in, real property that:

13
14 (i) Is held to be void and unenforceable by a
15 final determination of the supreme court of Wyoming or the
16 supreme court of the United States of America; or

17
18 (ii) Is in violation of the acts prohibited by
19 W.S. 40-26-103 through 40-26-109.

20
21 (b) Except as provided in W.S. 34-1-156, any person
22 who, in good faith, delivers or records any instrument
23 pursuant to subsection (a) of this section shall be immune

1 from civil liability. The immunity provided in this
2 subsection shall not be available to any person who:

3

4 (i) Represents or attempts to represent that the
5 restrictive covenants pertaining to paragraphs (a)(i) or
6 (ii) of this section, which are void and unenforceable or
7 prohibited by law, are valid and enforceable; or

8

9 (ii) Honors or exercises or attempts to honor or
10 exercise restrictive covenants pertaining to paragraphs
11 (a)(i) or (ii) of this section, which are void and
12 unenforceable or prohibited by law.

13

14 (c) Any title insurance company, escrow company, real
15 estate broker, real estate agent or association that
16 provides a copy of any conveyance which violates W.S.
17 40-26-103 through 40-26-109 affecting any interest in real
18 property to any person shall place a cover page or stamp on
19 the first page of the copy stating, in not smaller than
20 12-point type, the following: "This instrument contains a
21 restriction based on race, color, religion, sex,
22 disability, familial status or national origin, that
23 violates fair housing laws and is void and may be removed

1 pursuant to W.S. 34-1-154(a) by filing a new instrument as
2 provided by W.S. 34-1-155."

3

4 **34-1-155. Process for removing restrictive covenants**
5 **in violation of law.**

6

7 (a) In accordance with W.S. 34-1-154, a new
8 instrument removing a restrictive covenant that is in
9 violation of law may be recorded by filing the new
10 instrument with the county clerk for the county in which
11 the real property is located.

12

13 (b) A new instrument filed and recorded under this
14 section shall contain all of the following:

15

16 (i) The title of the filed and recorded prior
17 instrument to which the new instrument pertains;

18

19 (ii) The name and mailing address of the person
20 filing and recording the new instrument;

21

1 (iii) The name and mailing address of any owner
2 of record of the real property on whose behalf the new
3 instrument is being filed;

4

5 (iv) The legal description of the real property
6 subject to the provisions in violation of law as specified
7 in W.S. 34-1-154(a);

8

9 (v) A clear reference to the provisions in the
10 prior instrument that are in violation of law as specified
11 in W.S. 34-1-154(a) and have been stricken from the new
12 instrument.

13

14 (c) Upon receiving a new instrument that complies
15 with the requirements of subsection (b) of this section,
16 the county clerk for the county in which the real property
17 is located shall file and record the new instrument.

18

19 **34-1-156. Civil action for removing enforceable**
20 **covenants.**

21

22 (a) Any person whose real property is subject to, or
23 is benefitted by, a restrictive covenant that was removed

1 under W.S. 34-1-155 and who believes the restrictive
2 covenant is valid, may petition the court having
3 jurisdiction over the property. The petition shall state
4 the grounds upon which relief is requested, and shall be
5 supported by the affidavit of the petitioner or his
6 attorney setting forth a concise statement of the facts
7 upon which the petition is based. The clerk of court shall
8 assign a case number to the petition and obtain from the
9 petitioner a filing fee of thirty-five dollars (\$35.00).
10 Upon the filing of the petition the following shall apply:

11

12 (i) The court may enter its order, which may be
13 granted ex parte, directing the person who filed and
14 recorded the instrument to appear before the court at a
15 time no earlier than six (6) nor later than fifteen (15)
16 days following the date of service of the petition, and
17 order the person to show cause, if any, why the relief
18 provided in this subsection should not be granted. Service
19 under this section shall be made in accordance with the
20 rules of civil procedure;

21

22 (ii) If, following a hearing on the matter the
23 court determines that the restrictive covenant under

1 subsection (a) of this section is valid and enforceable,
2 the court shall issue an order so stating and awarding
3 damages of up to one thousand dollars (\$1,000.00) as
4 determined by the court or actual damages, whichever is
5 greater, costs and reasonable attorneys' fees to the
6 petitioner to be paid by the person who filed and recorded
7 the instrument;

8
9 (iii) If the court determines that the
10 restrictive covenant is void and unenforceable, the court
11 shall issue an order so stating and shall award costs and
12 reasonable attorneys' fees to the person who filed and
13 recorded the instrument to be paid by the petitioner.

14

15 **Section 2.** This act is effective July 1, 2021.

16

17

(END)