

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 914

Introduced by Cavanaugh, J., 9.

Read first time January 04, 2024

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to real property; to adopt the Uniform
- 2 Unlawful Restrictions in Land Records Act; and to provide
- 3 severability.
- 4 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

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

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

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

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

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

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

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

25 (A) inscribed on a tangible medium; or

26 (B) stored in an electronic or other medium and retrievable in
27 perceivable form.

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

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

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

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

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

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

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

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

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

29 (d) An amendment under this section is effective notwithstanding any
30 provision of the governing instrument or other law of this state that
31 requires a vote of the members of the association of owners to amend the

1 governing instrument.

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

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

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

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

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

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

22 Amendment by Owner to Remove an Unlawful Restriction

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

26 (1) Name of owner:

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

29 Address:

30 Legal Description:

31 (3) This amendment amends the following document:

1 of any of the notices described in 15 U.S.C. 7003(b).

2 Sec. 10. If any section in this act or any part of any section is
3 declared invalid or unconstitutional, the declaration shall not affect
4 the validity or constitutionality of the remaining portions.