
A BILL FOR AN ACT

RELATING TO PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 515-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§515-6 Restrictive covenants and conditions.** (a) Every
4 provision in an oral agreement or a written instrument relating
5 to real property that purports to forbid or restrict the
6 conveyance, encumbrance, occupancy, or lease thereof to
7 individuals because of race, sex, including gender identity or
8 expression, sexual orientation, color, religion, marital status,
9 familial status, ancestry, disability, age, or human
10 immunodeficiency virus infection, [~~is~~] shall be void.

11 (b) Every condition, restriction, or prohibition,
12 including a right of entry or possibility of reverter, that
13 directly or indirectly limits the use or occupancy of real
14 property on the basis of race, sex, including gender identity or
15 expression, sexual orientation, color, religion, marital status,
16 familial status, ancestry, disability, age, or human
17 immunodeficiency virus infection [~~is~~] shall be void, except a



1 limitation, on the basis of religion, on the use of real
2 property held by a religious institution or organization or by a
3 religious or charitable organization operated, supervised, or
4 controlled by a religious institution or organization, and used
5 for religious or charitable purposes.

6 (c) It [~~is~~] shall be a discriminatory practice to insert
7 in a written instrument relating to real property a provision
8 that is void under this section or to honor or attempt to honor
9 [~~such a~~] the provision in the chain of title.

10 (d) Any person who discovers a recorded discriminatory
11 restrictive covenant may:

12 (1) With the consent of all parties to a real estate
13 transaction, include in any deed, mortgage, or other
14 instrument filed for recording in connection with the
15 transaction a statement that the discriminatory
16 restrictive covenant is void and unenforceable; or

17 (2) Prepare and record a separate notice, cross-referenced
18 to the discriminatory restrictive covenant, stating
19 that the discriminatory restrictive covenant is void
20 and unenforceable.



1 (e) The statement or notice described under subsection (d)
2 shall be in a form substantially similar with the following:

3 "The chain of title for the real property described
4 herein contains a restrictive covenant that, if
5 enforced, would discriminate against individuals based
6 upon their race, sex, including gender identity or
7 expression, sexual orientation, color, religion,
8 marital status, familial status, ancestry, disability,
9 age, human immunodeficiency virus infection, or
10 national origin. The covenant is void, unenforceable,
11 and antithetical to American values of justice and
12 equal protection under the law."

13 (f) A person who in good faith:

14 (1) Prepares or causes to be prepared; or

15 (2) Records or causes to be recorded,

16 a statement or notice under subsection (d) shall be immune from
17 liability for incorrectly stating that the restrictive covenant
18 is discriminatory.

19 (g) For the purposes of this section, "discriminatory
20 restrictive covenant" means any restrictive covenant on real
21 property that, if enforced, would violate the:



- 1 (1) Equal protection clause of the United States
- 2 Constitution and article I, section 5, of the Hawaii
- 3 State Constitution;
- 4 (2) Prohibition in the federal Fair Housing Act (42 U.S.C.
- 5 3601 et seq.) against discrimination on the basis of
- 6 race, color, sex, religion, familial status,
- 7 disability, or national origin; or
- 8 (3) Prohibition against discrimination on the basis of
- 9 race, sex, including gender identity or expression,
- 10 sexual orientation, color, religion, marital status,
- 11 familial status, ancestry, disability, age, or human
- 12 immunodeficiency virus infection."

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.



Report Title:

Property; Discriminatory Restrictive Covenants; Invalidation of Covenants; Immunity

Description:

Authorizes a person who discovers a recorded discriminatory restrictive covenant to take certain actions, without liability, to invalidate the covenant. Defines discriminatory restrictive covenant. (CD1)

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