

FINAL BILL REPORT

ESB 6169

C 58 L 06

Synopsis as Enacted

Brief Description: Authorizing removal of discriminatory provisions in the governing documents of homeowners' associations.

Sponsors: Senators Kohl-Welles, Fairley, Prentice, Schmidt, Keiser, Benson, Kline, Franklin, Pridemore, Poulsen and Esser.

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Judiciary

Background: The Homeowners' Association Act does not address amending the governing documents of a homeowners' association for the purpose of removing unlawful restrictive covenants. Currently, the process for amending covenants is generally controlled by the governing documents of a homeowner's association, which may often require a unanimous vote of all members.

In 1988, the Federal Fair Housing Amendments Act was passed, prohibiting discriminatory housing covenants, conditions, or restrictions. In addition, under Washington State statutes, it is an unfair practice for real property contract provisions to contain statutorily discriminating language. State law provides that the following are protected against discrimination in housing: individuals of a specified race, creed, color, sex, national origin; families with children status; individuals with any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a physical disability or by a person who is blind or deaf.

There is an existing judicial process for striking discriminating language from the governing documents of a homeowners' association. Under this process, an owner, occupant, or tenant may bring an action in superior court to have any language that is void as statutorily discriminatory stricken from the public record and eliminated from the property title or lease.

In spite of the existence of a judicial remedy, discriminatory covenants, conditions, and restrictions continue to be present in the governing documents of some homeowners' associations. It is believed that the continued existence of such restrictive covenants is against public policy and that, therefore, a simplified process for amending the governing documents is necessary.

Summary: A homeowners' association may amend its governing documents for the purpose of removing a statutorily discriminating covenant, condition, or restriction by a simple majority vote of its board. Any board officer may move for the board to vote on amendments for this purpose. A vote or approval by homeowners' association owners, who are non-board members, is not required.

An association member can submit a written request to the board, asking the board to amend, within a reasonable time, the governing documents for the purpose of removing restrictive covenants. If a written request is made, the board has a duty to make amendments, as provided.

An amendment made under this process must be recorded in the public records with the verbatim language required in the statute, providing that the amendment was removed from the homeowners' association's governing documents as void under state law due to statutorily discriminating provisions.

In addition to any owner, occupant, or tenant being able to bring a superior court action to have statutorily discriminating language stricken from the public records, the association board may also bring such a cause of action.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2006