
ENGROSSED HOUSE BILL 2801

State of Washington

59th Legislature

2006 Regular Session

By Representatives Chase, Morrell, Hasegawa, McCoy, Sump, Hunt, Hunter, Upthegrove, Pettigrew, Kenney, Roberts, Moeller, Santos, Schual-Berke, Simpson, Kagi and Darneille

Read first time 01/13/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to discriminatory provisions in the governing
2 documents of homeowners' associations; amending RCW 49.60.227; adding
3 a new section to chapter 64.38 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that some homeowners'
6 associations have governing documents that contain discriminatory
7 covenants, conditions, or restrictions that are void and unenforceable
8 under both the Federal Fair Housing Amendments Act of 1988 and RCW
9 49.60.224. The continued existence of these discriminatory covenants,
10 conditions, or restrictions is contrary to public policy and repugnant
11 to many property owners. It is the intent of this act to allow
12 homeowners' associations to remove all remnants of discrimination from
13 their governing documents.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 64.38 RCW
15 to read as follows:

16 (1) The association, acting through a simple majority vote of its
17 board, may amend the association's governing documents for the purpose
18 of removing:

1 (a) Every covenant, condition, or restriction that purports to
2 forbid or restrict the conveyance, encumbrance, occupancy, or lease
3 thereof to individuals of a specified race, creed, color, sex, or
4 national origin; families with children status; individuals with any
5 sensory, mental, or physical disability; or individuals who use a
6 trained dog guide or service animal because they are blind or deaf or
7 have a physical disability; and

8 (b) Every covenant, condition, restriction, or prohibition,
9 including a right of entry or possibility of reverter, that directly or
10 indirectly limits the use or occupancy of real property on the basis of
11 race, creed, color, sex, national origin; families with children
12 status; the presence of any sensory, mental, or physical disability; or
13 the use of a trained dog guide or service animal by a person with a
14 physical disability or who is blind or deaf.

15 (2) Upon the board's receipt of a written request by a member of
16 the association that the board exercise its amending authority granted
17 under subsection (1) of this section, the board must, within a
18 reasonable time, amend the governing documents, as provided under this
19 section.

20 (3) Amendments under subsection (1) of this section may be executed
21 by any board officer.

22 (4) Amendments made under subsection (1) of this section must be
23 recorded in the public records and state the following:

24 "This amendment strikes from these covenants,
25 conditions, and restrictions those provisions that are void
26 under RCW 49.60.224. Specifically, this amendment strikes:

27 (a) Those provisions that forbid or restrict use,
28 occupancy, conveyance, encumbrance, or lease of real property
29 to individuals of a specified race, creed, color, sex, or
30 national origin; families with children status; individuals
31 with any sensory, mental, or physical disability; or
32 individuals who use a trained dog guide or service animal
33 because they are blind or deaf or have a physical disability;
34 and

35 (b) Every covenant, condition, restriction, or
36 prohibition, including a right of entry or possibility of
37 reverter, that directly or indirectly limits the use or
38 occupancy of real property on the basis of race, creed, color,

1 sex, national origin; families with children status; the
2 presence of any sensory, mental, or physical disability; or the
3 use of a trained dog guide or service animal by a person with
4 a physical disability or who is blind or deaf."

5 (5) Board action under this section does not require the vote or
6 approval of the owners.

7 (6) As provided in RCW 49.60.227, any owner, occupant, or tenant in
8 the association or board may bring an action in superior court to have
9 any provision of a written instrument that is void pursuant to RCW
10 49.60.224 stricken from the public records.

11 (7) Nothing in this section prohibiting discrimination based on
12 families with children status applies to housing for older persons as
13 defined by the federal fair housing amendments act of 1988, 42 U.S.C.
14 Sec. 3607(b)(1) through (3), as amended by the housing for older
15 persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.
16 Nothing in this section authorizes requirements for housing for older
17 persons different than the requirements in the federal fair housing
18 amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as
19 amended by the housing for older persons act of 1995, P.L. 104-76, as
20 enacted on December 28, 1995.

21 (8) Except as otherwise provided in subsection (2) of this section:
22 (a) Nothing in this section creates a duty on the part of owners,
23 occupants, tenants, associations, or boards to amend the governing
24 documents as provided in this section, or to bring an action as
25 authorized under this section and RCW 49.60.227; and (b) an owner,
26 occupant, tenant, association, or board is not liable for failing to
27 amend the governing documents or to pursue an action in court as
28 authorized under this section and RCW 49.61.227.

29 **Sec. 3.** RCW 49.60.227 and 1995 c 292 s 18 are each amended to read
30 as follows:

31 If a written instrument contains a provision that is void by reason
32 of RCW 49.60.224, the owner, occupant, or tenant of the property which
33 is subject to the provision or the homeowners' association board may
34 cause the provision to be stricken from the public records by bringing
35 an action in the superior court in the county in which the property is
36 located. The action shall be an in rem, declaratory judgment action
37 whose title shall be the description of the property. The necessary

1 party to the action shall be the owner, occupant, or tenant of the
2 property or any portion thereof. The person bringing the action shall
3 pay a fee set under RCW 36.18.012.

4 If the court finds that any provisions of the written instrument
5 are void under RCW 49.60.224, it shall enter an order striking the void
6 provisions from the public records and eliminating the void provisions
7 from the title or lease of the property described in the complaint.

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