
Judiciary Committee

HB 2514

Title: An act relating to discriminatory provisions found in written instruments related to real property.

Brief Description: Regarding discriminatory provisions found in written instruments related to real property.

Sponsors: Representatives Kilduff, Muri, Sawyer, Frame, Jinkins, Gregerson, Valdez, Lovick, Stanford, Pollet, Santos and Stonier.

Brief Summary of Bill

- Authorizes an owner of property subject to a written instrument containing provisions void by reason of Washington's Law Against Discrimination to record with the county auditor a restrictive covenant modification document.
- Changes the list of unlawful provisions that homeowners association boards may (and in some cases, must) remove from their governing documents by majority vote to include all provisions that are void by reason of Washington's Law Against Discrimination.

Hearing Date: 1/17/18

Staff: Nate Hickner (786-7290) and Cece Clynch (786-7195).

Background:

Striking Unlawful Discriminatory Provisions from Written Instruments Relating to Real Property.

Under Washington's Law Against Discrimination, any provision in a written instrument relating to real property that purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals on the basis of any one of several protected characteristics is void. These protected characteristics are:

- race;

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- creed;
- color;
- sex;
- national origin;
- *sexual orientation*;
- families with children status;
- *honorably discharged veteran or military status*;
- any sensory, mental, or physical disability;
- or the use of a trained dog guide or service animal by a person who is blind, deaf, or physically disabled.

Italics represent protected classes added to Washington's Law Against Discrimination after 2006.

If a written instrument contains a provision that is void under Washington's Law Against Discrimination, the owner, occupant, or tenant of the property or the homeowners association board may bring an action in superior court to have the provision stricken from the public records.

Additionally, homeowners association boards may, by simple majority vote, amend the association's governing documents for the purpose of removing any covenant, condition, or restriction that purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease to individuals on the basis of any protected characteristic as reflected in Washington's Law Against Discrimination prior to 2006.

Upon receiving a written request to remove such a provision from a member of the association, the board must amend the governing documents within a reasonable time. Any such amendment must be recorded in the public records.

County Auditors.

County auditors are county officials charged with maintaining documents and records that must be officially filed or recorded, including real property records, marriage licenses, and vital statistics documents.

Summary of Bill:

The owner of property subject to a written instrument that contains a discriminatory provision void by reason of Washington's Law Against Discrimination may record a restrictive covenant modification document with the county auditor in the county in which the property is located.

The modification document is a standard form created by the Washington State Association of State Auditors containing a complete copy of the original written instrument containing the void provision.

Before recording such a document, the county auditor or the auditor's designee must determine whether the original written instrument contains a provision that is void by reason of Washington's Law Against Discrimination, and must only record the document if the original written instrument contains such a provision. The modification document must be indexed in the same manner as the original written instrument being modified. The county auditor may not charge a filing or recording fee.

Any liability that may result from recording a document not authorized by this section is the sole responsibility of the owner who caused the document to be recorded.

The list of discriminatory provisions that homeowners association boards may, through simple majority vote, remove from governing documents is changed to include the protected characteristics added to Washington's Law Against Discrimination in 2006 and after.

Appropriation: None.

Fiscal Note: Requested on 1/10/18.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 1, relating to registering title modification documents with the county auditor, which takes effect January 1, 2019.