

FINAL BILL REPORT

E2SHB 1335

C 256 L 21
Synopsis as Enacted

Brief Description: Concerning review and property owner notification of recorded documents with unlawful racial restrictions.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Valdez, Rude, Berry, Fitzgibbon, Morgan, Santos, Shewmake, Davis, Berg, Gilday, Bergquist, Fey, Bateman, Lekanoff, Lovick, Callan, Riccelli, Rule, Pollet, Senn and Harris-Talley).

House Committee on Local Government
House Committee on Appropriations
Senate Committee on Business, Financial Services & Trade
Senate Committee on Ways & Means

Background:

Washington Law Against Discrimination.

The Washington Law Against Discrimination (WLAD) prohibits discriminatory practices in employment; places of public resort, accommodation, or amusement; real estate transactions; and credit and insurance. The law protects persons from discrimination based on their race, creed, color, national origin, citizenship or immigration status, families with children, sex, marital status, sexual orientation, age, honorably discharged veterans, or military status. The law also protects persons from discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

The WLAD declares void any provision in a written instrument relating to real property that purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease of the property to individuals within a protected class. If a written instrument contains a provision void under the WLAD, the owner, occupant, or tenant of the property or the homeowners' association board may bring an action in superior court to have the provision struck from the public records, or the owner of the property may record a restrictive covenant

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modification document with the county auditor. If a property owner, occupant, or tenant of the property or the homeowners' association board brings an action in superior court to cause unlawful provisions to be stricken, the court must enter an order striking the void provisions from the public records and eliminating them from the title or lease of the property described in the complaint.

Seller's Disclosures.

A seller of residential real property must provide a buyer with a disclosure statement about the property within five business days after mutual acceptance of a written purchase agreement. The seller disclosure statement includes the following categories:

- title;
- water;
- sewer or on-site sewage system;
- structural;
- systems and fixtures;
- homeowners' association or common interests;
- environmental;
- manufactured and mobile homes; and
- full disclosure by sellers.

Within three business days of receipt of the disclosure statement, the buyer may approve and accept the disclosure statement or rescind the purchase agreement. If the disclosure statement is delivered late or not delivered, the buyer's right to rescind expires the earlier of three days after receipt of the disclosure statement or the date the transfer closes.

Summary:

Washington Law Against Discrimination.

Subject to the availability of appropriated amounts, the University of Washington and Eastern Washington University must review existing recorded covenants and deed restrictions to identify recorded documents that include racial or other restrictions on property ownership or use against protected classes that are unlawful under the WLAD. For properties subject to such unlawful restrictions, the universities must notify property owners and the county auditor of the county in which the property is located and must provide information on how such unlawful restrictions may be struck.

When an action to strike unlawful provisions is brought in superior court and an order striking the void provision is entered by the court, a complete copy of any document affected by the order must be made an exhibit to the order. The order must identify each document and set forth verbatim the void provisions to be struck and must include a certified copy of each document, upon which the court has physically redacted the void provisions. The person bringing the action may obtain and deliver a certified copy of the order to the county auditor or official charged with recording instruments in the county records, and the auditor or official must record the documents prepared by the court. An

image of the corrected document must be placed in the public records and must contain certain specified information. The auditor is required to update the index of each original document referenced in the court order with the auditor's file number of the corrected document, and the index must note that the original record is no longer the primary official public record and is removed from the chain of title. The original document or image and subsequent records must be separately maintained in the county's records and, at the auditor or official's discretion, the original document or image may also be transferred to the Secretary of State Archives Division to be preserved for historical or archival purposes.

Seller's Disclosures.

The seller disclosure statement is amended to include a notice to the buyer that covenants or deed restrictions based on race, creed, sexual orientation, or other protected class are void and unenforceable, and to provide information on how such illegal restrictions may be stricken.

These provisions apply to real estate transactions entered into on or after January 1, 2022.

Votes on Final Passage:

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| House | 97 | 1 | |
| Senate | 49 | 0 | (Senate amended) |
| House | 95 | 1 | (House concurred) |

Effective: July 25, 2021