

AMENDED IN SENATE JULY 2, 2008
AMENDED IN ASSEMBLY MAY 23, 2008
AMENDED IN ASSEMBLY MAY 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2204

Introduced by Assembly Member De La Torre
(Principal coauthor: Assembly Member Lieber)

February 20, 2008

An act to add Section ~~27203.5~~ 12956.3 to the Government Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2204, as amended, De La Torre. Real property: discriminatory restrictions.

(1) Existing law declares that any provision in any deed of real property in California that purports to restrict the right of any person to sell, lease, rent, use, or occupy the property to persons having any specified characteristic, including, but not limited to, race, color, religion, sex, marital status, national origin, ancestry, familial status, disability, source of income, or sexual orientation, by providing for payment of a penalty, forfeiture, reverter, or otherwise, is void.

Existing law also provides that any deed or other written instrument that relates to title to real property, or any written covenant, condition, or restriction annexed or made a part of, by reference or otherwise, any deed or instrument, that contains any provision that purports to forbid, restrict, or condition the right of any person or persons to sell, buy, lease, rent, use, or occupy the property on account of any of the

above-specified characteristics, shall be deemed to be revised to omit that provision.

This bill would require any person requesting recordation of the deed or other instrument transferring title of real property constructed prior to 1964 to attach all written covenants, conditions, or restrictions associated with the property. The bill would require the county recorder to submit a copy of those documents to county counsel, and would require the county counsel to determine whether a document contains an unlawful restriction, as specified. If the county counsel determines that a document contains an unlawful restriction, the bill would require the county counsel to fill out a Restrictive Covenant Modification Form and attach a copy of the original document with the unlawful restrictive language stricken. The bill would require the county counsel to return the documents and the Restrictive Covenant Modification Form, if any, to the county recorder and inform the county recorder of counsel's determination. The bill would require the county recorder to record, as specified, any modification document received from county counsel and to send a notice to the legal owner of the property that a Restrictive Covenant Modification has been filed on the property. By creating new duties for local officials, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~This bill would require a county recorder who provides a copy of any deed or other written instrument relating to title to real property, or any written covenant, condition, or restriction annexed or made a part of, by reference or otherwise, the deed or instrument, that contains any provision that purports to forbid, restrict, or condition the right of any person or persons to sell, buy, lease, rent, use, or occupy the property on account of any of the above-specified characteristics, with respect to any person or persons, to cause that provision to be stricken from the deed or other written instrument before the property is transferred. The bill would authorize the county recorder to charge a fee, not to exceed his or her reasonable costs, for providing a copy of a deed or other~~

~~written instrument that requires modification. By increasing the duties of county recorders, this bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason:~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 12956.3 is added to the Government Code,
2 to read:
3 12956.3. (a) For any transfer of residential real property
4 constructed prior to 1964, the person requesting recordation of
5 the deed or other instrument transferring title shall attach all
6 written covenants, conditions, or restrictions associated with the
7 property. Upon recordation of that deed or instrument, the county
8 recorder shall submit a copy of those documents to county counsel
9 for a determination of whether any document contains an unlawful
10 restriction.
11 (b) Upon receiving a document pursuant to subdivision (a), the
12 county counsel shall determine whether a document contains an
13 unlawful restriction based on race, color, religion, sex, sexual
14 orientation, familial status, marital status, disability, national
15 origin, source of income as defined in subdivision (p) of Section
16 12955, or ancestry. If the county counsel determines that a
17 document contains an unlawful restriction, the county counsel
18 shall fill out a Restrictive Covenant Modification Form, as
19 described in Section 12956.2, and attach a copy of the original
20 document with the unlawful restrictive language stricken. The
21 county counsel shall return the documents and the Restrictive
22 Covenant Modification Form, if any, to the county recorder and
23 inform the county recorder of counsel’s determination.
24 (c) The county recorder shall record any modification document
25 received from county counsel and send a notice to the legal owner
26 of the property that a Restrictive Covenant Modification has been
27 filed on the property.

1 (d) *The modification document shall be indexed in the same*
2 *manner as the original document being modified. It shall contain*
3 *a recording reference to the original document in the form of a*
4 *book and page or instrument number, and date of the recording.*

5 (e) *Subject to covenants, conditions, and restrictions that were*
6 *recorded after the recording of the original document that contains*
7 *the unlawfully restrictive language and subject to covenants,*
8 *conditions, and restrictions that will be recorded after the*
9 *Restrictive Covenant Modification, the restrictions in the*
10 *Restrictive Covenant Modification, once recorded, are the only*
11 *restrictions having effect on the property. The effective date of the*
12 *terms and conditions of the modification document shall be the*
13 *same as the effective date of the original document.*

14 *SEC. 2. If the Commission on State Mandates determines that*
15 *this act contains costs mandated by the state, reimbursement to*
16 *local agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code.*

19 ~~SECTION 1. Section 27203.5 is added to the Government~~
20 ~~Code, to read:~~

21 ~~27203.5. (a) A county recorder who provides a copy of a deed~~
22 ~~or other written instrument relating to title to real property, or any~~
23 ~~written covenant, condition, or restriction annexed or made a part~~
24 ~~of, by reference or otherwise, the deed or instrument, that contains~~
25 ~~any provision that purports to forbid, restrict, or condition the right~~
26 ~~of any person or persons to sell, buy, lease, rent, use, or occupy~~
27 ~~the property on account of any basis listed in subdivision (a) or~~
28 ~~(d) of Section 12955, as those bases are defined in Sections 12926~~
29 ~~and 12926.1, subdivision (m) and paragraph (1) of subdivision (p)~~
30 ~~of Section 12955, and Section 12955.2, with respect to any person~~
31 ~~or persons, shall cause that provision to be stricken from the deed~~
32 ~~or other written instrument before the property is transferred. The~~
33 ~~county recorder may charge a fee, not to exceed his or her~~
34 ~~reasonable costs, for providing a copy of a deed or other written~~
35 ~~instrument that requires modification pursuant to this section.~~

36 ~~(b) Notwithstanding subdivision (a), with respect to familial~~
37 ~~status, subdivision (a) shall not be construed to apply to housing~~
38 ~~for older persons, as defined in Section 12955.9. With respect to~~
39 ~~familial status, nothing in subdivision (a) shall be construed to~~
40 ~~affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the~~

1 Civil Code, relating to housing for senior citizens. Subdivision (d)
2 of Section 51 and Section 1360 of the Civil Code and subdivisions
3 (n), (o), and (p) of Section 12955 shall apply to subdivision (a):

4 SEC. 2. ~~No reimbursement is required by this act pursuant to~~
5 ~~Section 6 of Article XIII B of the California Constitution because~~
6 ~~a local agency or school district has the authority to levy service~~
7 ~~charges, fees, or assessments sufficient to pay for the program or~~
8 ~~level of service mandated by this act, within the meaning of Section~~
9 ~~17556 of the Government Code.~~

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