

AMENDED IN SENATE FEBRUARY 17, 2000
AMENDED IN ASSEMBLY JANUARY 19, 2000
AMENDED IN ASSEMBLY JANUARY 3, 2000
AMENDED IN ASSEMBLY APRIL 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1493

Introduced by Assembly Member Nakano
(Principal coauthor: Senator Burton)

February 26, 1999

An act to amend Section 12956.1 of the Government Code, relating to public records, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1493, as amended, Nakano. Recording documents: restrictive covenants.

(1) Existing law authorizes any person holding an interest in property to request that the county recorder remove specified unlawful restrictive covenant language contained in a declaration, governing document, or deed associated with that property pursuant to specified provisions and requires the county recorder, title insurance company, escrow company, real estate broker, real estate agent, or association that provides the specified document to any person to place a cover page or stamp that contains a specified statement if the document includes such a restrictive covenant.

This bill instead would authorize any person holding an ownership interest in property to record *a copy of* the document with the *blatant social* restrictive covenant stricken from it pursuant to these provisions.

(2) Existing law also authorizes any person holding an interest in property that is the subject of any recorded document to require the county recorder to remove any blatant racial restrictive covenant contained in the document upon application pursuant to specified procedures.

This bill would provide that these procedures apply only to any person who holds an ownership interest of record in the property and would further authorize that person to delete any blatant racial restrictive covenant from a certified copy issued by the county recorder, and, upon payment of applicable fees, to cause the modified document to be recorded with a cover page attached to it that contains a specified statement. This bill would also make other technical, nonsubstantive changes to these provisions.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. Section 12956.1 of the Government
 2 Code is amended to read:
 3 12956.1. (a) As used in this section, “association,”
 4 “governing documents,” and “declaration” have the
 5 same meanings as set forth in Section 1351 of the Civil
 6 Code.
 7 (b) A county recorder, title insurance company,
 8 escrow company, real estate broker, real estate agent, or
 9 association that provides *a copy of* a declaration,
 10 governing document, or deed to any person shall place a
 11 cover page ~~over the document or a stamp on the first page~~
 12 ~~of the document stating, in at least 20-point boldface red~~
 13 ~~type, or stamp on the first page of the previously recorded~~
 14 *document or documents containing blatant racial*



1 *restrictive covenants stating, in at least 20-point boldface*
2 *type, the following:*

3 ~~“If this document contains any restriction based on~~
4 ~~race, color, religion, sex, familial status, marital status,~~
5 ~~disability, national origin, or ancestry, that restriction~~

6 *“If this document contains a blatant racial restrictive*
7 *covenant, that restriction violates state and federal fair*
8 *housing laws and is void. Any person holding an*
9 *ownership interest in this property may record the*
10 *document with the blatant racial restrictive covenant*
11 *stricken pursuant to subdivision (c) or (d) of Section*
12 *12956.1 of the Government Code.”*

13 *This provision shall not apply to original documents*
14 *submitted for recording.*

15 (c) Any person who holds any ownership interest in
16 the property that is the subject of this document may
17 remove any blatant racial restrictive covenant contained
18 in any recorded document associated with that property.
19 Any application pursuant to this subdivision shall be in
20 writing, shall identify the document and the location
21 within the document where the restrictive covenant is
22 located, and shall be accompanied by any fee prescribed
23 by the recorder, not to exceed the actual cost of the
24 required action. The recorder shall carry out the required
25 action in a timely manner.

26 (d) In the event that a recorded document contains
27 one or more blatant racial restrictive covenants referred
28 to in subdivision (c), any person who holds an ownership
29 interest of record in the property that is the subject of this
30 document may delete the covenant(s) from a certified
31 copy thereof issued by the recorder, and, upon payment
32 of applicable fees, cause the modified document without
33 the cover page referenced in subdivision (b) to be
34 recorded, provided that all other requirements for
35 recordation are met. In addition, the document as
36 modified shall have a coversheet attached thereto, which
37 will be recorded as a part thereof, containing the
38 following statement signed by the person requesting
39 recordation:

40



RESTRICTIVE COVENANT MODIFICATION

I (We) _____ have an ownership interest of record in the property located at _____ (Address) that is the subject of this document.

This document contained a blatant racial restrictive covenant. Pursuant to Section 12956.1 of the Government Code, this document is being recorded solely for the purpose of eliminating a blatant racial restrictive covenant as shown on page(s) _____ of the document recorded on _____ (Date) in book _____ and page _____, or instrument number _____ of the official records of the County of _____ . No other changes have been made.

The record owner(s) of this property is/are: _____ .

If executed at any place, within or without this state:

“I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct”:

_____ (Date and Place)
_____ (Signature)

(e) Subdivisions (b), (c), and (d) of this section shall not apply to persons holding an ownership interest in property that is part of a common interest development as defined in subdivision (c) of Section 1351 of the Civil Code, and where the board of directors of that common interest development is subject to the requirements of subdivision (b) of Section 1352.5 of the Civil Code.

(f) Any person who records a document for the express purpose of adding a racially restrictive covenant is guilty of a misdemeanor. The county recorder shall not incur any liability for recording the document.



1 Notwithstanding any other provision of law, a
2 prosecution for a violation of this subdivision shall
3 commence within three years after the discovery of the
4 recording of the document.

5 SEC. 2. This act is an urgency statute necessary for the
6 immediate preservation of the public peace, health, or
7 safety within the meaning of Article IV of the
8 Constitution and shall go into immediate effect. The facts
9 constituting the necessity are:

10 In order to ensure a uniform recording procedure so
11 that all counties will respond in the same manner to
12 requests to modify restrictive covenants and housing
13 deeds, it is necessary that this act take effect immediately.

