

AMENDED IN SENATE MAY 30, 2000
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 *in at least 20-point boldface type* 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 require that the specified statement be in 14-point boldface type and would revise the statement to include a provision stating that lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status. The bill would also delete that part of the statement that authorizes the county recorder to remove the restrictive covenant language upon the request of any person who holds any interest in the property.~~

(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 instead would provide that these procedures apply only to a new procedure whereby 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 may apply in writing to the Department of Fair Employment and Housing for a determination of whether a restrictive covenant violates the fair housing laws and is void. The bill would also require the department to process the application within 90 days and would authorize the applicant to strike out the void restrictive covenant and have the modified document recorded.~~

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: ~~no~~ yes. 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) (I) 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 or stamp on the first page of the previously
12 recorded document or documents containing blatant
13 racial restrictive covenants stating, in at least 20 point
14 boldface type, the following:

15 ~~“If this document contains a blatant racial restrictive~~
16 ~~covenant, that restriction violates state and federal fair~~
17 ~~housing laws and is void. Any person holding an~~
18 ~~ownership interest in this property may record the~~
19 ~~document with the blatant racial restrictive covenant~~
20 ~~stricken pursuant to subdivision (e) or (d) of Section~~
21 ~~12956.1 of the Government Code.”~~

22 ~~This provision shall not apply to original documents~~
23 ~~submitted for recording.~~

24 ~~(c) Any person who holds any ownership interest in~~
25 ~~the property that is the subject of this document may~~
26 ~~remove any blatant racial restrictive covenant contained~~
27 ~~in any recorded document associated with that property.~~
28 ~~Any application pursuant to this subdivision shall be in~~
29 ~~writing, shall identify the document and the location~~
30 ~~within the document where the restrictive covenant is~~
31 ~~located, and shall be accompanied by any fee prescribed~~
32 ~~by the recorder, not to exceed the actual cost of the~~
33 ~~required action. The recorder shall carry out the required~~
34 ~~action in a timely manner.~~

35 ~~(d) In the event that a recorded document contains~~
36 ~~one or more blatant racial restrictive covenants referred~~
37 ~~to in subdivision (c), any person who holds an ownership~~
38 ~~interest of record in the property that is the subject of this~~



1 document may delete the covenant(s) from a certified
 2 copy thereof issued by the recorder, and, upon payment
 3 of applicable fees, cause the modified document without
 4 the cover page referenced in subdivision (b) to be
 5 recorded, provided that all other requirements for
 6 recordation are met. In addition, the document as
 7 modified shall have a coversheet attached thereto, which
 8 will be recorded as a part thereof, containing the
 9 following statement signed by the person requesting
 10 recordation:

11
 12 RESTRICTIVE COVENANT MODIFICATION

13
 14 I (We) _____ have an ownership
 15 interest of record in the property located at
 16 _____ (Address) that is the subject
 17 of this document.

18
 19 This document contained a blatant racial restrictive
 20 covenant. Pursuant to Section 12956.1 of the
 21 Government Code, this document is being recorded
 22 solely for the purpose of eliminating a blatant racial
 23 restrictive covenant as shown on page(s) _____ of the
 24 document recorded on _____ (Date) in book _____ and
 25 page _____, or instrument number _____ of the official
 26 records of the County of _____. No other
 27 changes have been made.

28
 29 The record owner(s) of this property
 30 is/are: _____.

31
 32 If executed at any place, within or without this state:

33
 34 “I certify (or declare) under penalty of perjury
 35 under the laws of the State of California that the
 36 foregoing is true and correct”:

37
 38 _____ (Date and Place)

39 _____ (Signature)

40 —



1 ~~(e) Subdivisions (b), (c), and (d) of this section shall~~
2 ~~document or documents stating, in at least 14-point~~
3 ~~boldface type, the following:~~

4 *“If this document contains any restriction based on*
5 *race, color, religion, sex, familial status, marital status,*
6 *disability, national origin, or ancestry, that restriction*
7 *violates state and federal fair housing laws and is void, and*
8 *may be removed pursuant to Section 12956.1 of the*
9 *Government Code. Lawful restrictions under state and*
10 *federal law on the age of occupants in senior housing or*
11 *housing for older persons shall not be construed as*
12 *restrictions based on familial status.”*

13 *(2) The requirements set forth in paragraph (1) shall*
14 *not apply to documents being submitted for recordation*
15 *to a county recorder.*

16 *(c) (1) Any person who holds an ownership interest*
17 *of record in property that he or she believes is the subject*
18 *of a restrictive covenant referred to in subdivision (b),*
19 *may file an application with the Department of Fair*
20 *Employment and Housing requesting a determination of*
21 *whether the restrictive covenant violates the fair housing*
22 *laws and is void. Any application pursuant to this*
23 *subdivision shall be in writing, contain a copy of the*
24 *document, and identify the location within the document*
25 *where the restrictive covenant is located.*

26 *(2) If the department determines that the document*
27 *contains a restrictive covenant that violates the law, it*
28 *shall provide the applicant with a written statement that*
29 *sets forth this determination, including the page and line*
30 *numbers of any void restrictive covenant, which*
31 *statement may be recorded with the document pursuant*
32 *to paragraph (3). The department shall process all*
33 *applications within 90 days.*

34 *(3) The applicant may strike out a void restrictive*
35 *covenant identified by the department, attach a copy of*
36 *the written statement from the department to the front*
37 *of the document, and cause the modified document to be*
38 *recorded, if provided that all other requirements of*
39 *recordation are met, including the payment of any*
40 *recordation fee.*



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

8 (e) The provisions of this section shall have no bearing
 9 or effect upon Section 12955.9.

10 (f) Any person who records a document for the
 11 express purpose of adding a racially restrictive covenant
 12 is guilty of a misdemeanor. The county recorder shall not
 13 incur any liability for recording the document.
 14 Notwithstanding any other provision of law, a
 15 prosecution for a violation of this subdivision shall
 16 commence within three years after the discovery of the
 17 recording of the document.

18 SEC. 2. This act is an urgency statute necessary for the
 19 immediate preservation of the public peace, health, or
 20 safety within the meaning of Article IV of the
 21 Constitution and shall go into immediate effect. The facts
 22 constituting the necessity are:

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

