



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0058

Introduced 1/14/2021, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-5048 new

Amends the Counties Code. Provides that a restrictive covenant modification to an unlawful restrictive covenant may be filed by: (1) the holder of an ownership interest in property that is subject to the unlawful restrictive covenant; or (2) a common interest community association, a condominium association, a unit owners' association, or a master association of a parcel of property subject to the association's declaration and the parcel is subject to an unlawful restrictive covenant. Includes requirements for a restrictive covenant modification and the petition to modify. Provides that, on receipt of a restrictive covenant modification, the recorder shall submit the restrictive covenant modification together with a copy of the original instrument referenced in the restrictive covenant modification to the State's Attorney. Once submitted to the State's Attorney, the State's Attorney shall make a determination within 30 days if the original document contains an unlawful restrictive covenant. Provides that the recorder may not record the modification unless the State's Attorney determines an unlawful restrictive covenant exists and shall record the modification if the State's Attorney finds an unlawful restrictive covenant. Limits liability of the county for unauthorized modifications. Defines terms. Contains other provisions.

LRB102 02671 AWJ 12674 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by adding Section
5 3-5048 as follows:

6 (55 ILCS 5/3-5048 new)

7 Sec. 3-5048. Unlawful restrictive covenant modifications.

8 (a) As used in this Section:

9 "Declaration" has the meaning given to that term in
10 Section 1-5 of the Common Interest Community Association Act
11 or Section 2 of the Condominium Property Act, as applicable.

12 "Unlawful restrictive covenant" means any recorded
13 covenant or restriction that is void under Section 3-105 of
14 the Illinois Human Rights Act which purports to forbid or
15 restrict the conveyance, encumbrance, occupancy, or lease
16 thereof on the basis of race, color, religion, or national
17 origin.

18 "Recorder" means the recorder of the county where the
19 property subject to the unlawful restrictive covenant is
20 located.

21 (b) A person or entity may execute and file a restrictive
22 covenant modification to an unlawful restrictive covenant in
23 accordance with this Section if the person or entity:

1 (1) holds an ownership interest in property that is
2 subject to the unlawful restrictive covenant; or

3 (2) is a common interest community association, a
4 condominium association, a unit owners' association, or a
5 master association of a parcel of property subject to the
6 association's declaration and the parcel is subject to an
7 unlawful restrictive covenant.

8 (c) A restrictive covenant modification shall include:

9 (1) a complete copy of the original instrument
10 containing the unlawful restrictive covenant with the
11 language of the unlawful restrictive covenant stricken;
12 and

13 (2) a petition to modify an unlawful restrictive
14 covenant, as provided in subsection (d).

15 (d) A petition to modify an unlawful restrictive covenant
16 shall:

17 (1) be signed by the record owner of the property or,
18 in the case of an entity under paragraph (2) of subsection
19 (b), be accompanied by a certification that a majority of
20 the governing body of the entity has agreed to the
21 restrictive covenant modification;

22 (2) reference the property index number or unique
23 parcel identification code of the property for which the
24 original instrument containing the unlawful restrictive
25 covenant is recorded; and

26 (3) include any other information that the recorder or

1 State's Attorney considers necessary in carrying out the
2 requirements of this Section.

3 (e) On receipt of a restrictive covenant modification, the
4 recorder shall submit the restrictive covenant modification
5 together with a copy of the original instrument referenced in
6 the restrictive covenant modification to the State's Attorney.

7 (f) Within 30 days of receipt from the recorder, the
8 State's Attorney shall:

9 (1) review the restrictive covenant modification and
10 the copy of the original instrument to determine: (i)
11 whether the original instrument contains an unlawful
12 restrictive covenant; and (ii) whether the restrictive
13 covenant modification correctly strikes through only the
14 language of the unlawful restrictive covenant; and

15 (2) return the restrictive covenant modification and
16 copy of the original instrument to the recorder together
17 with the State's Attorney's written determination.

18 (g) The recorder may not record a restrictive covenant
19 modification filed under subsection (b) unless the State's
20 Attorney determines that the modification is appropriate in
21 accordance with subsection (f). If the State's Attorney's
22 written determination finds that the instrument contains an
23 unlawful restrictive covenant, the recorder shall record the
24 restrictive covenant modification with the language stricken
25 as directed by the State's Attorney.

26 (h) A recorded restrictive covenant modification shall be

1 indexed in the same manner as the original instrument.

2 (i) Subject to all lawful covenants, conditions, and
3 restrictions that were recorded after the recording of the
4 original instrument, the restrictions contained in a duly
5 recorded restrictive covenant modification are the only
6 restrictions based on the original instrument that apply to
7 the property.

8 (j) The effective date of the terms and conditions
9 contained in a duly recorded restrictive covenant modification
10 shall be the same as the effective date of the original
11 instrument.

12 (k) If a person or entity causes to be filed or recorded a
13 restrictive covenant modification that contains modifications
14 not authorized under this Section:

15 (1) the recorder may not incur any liability for
16 recording the restrictive covenant modification;

17 (2) the county may not incur any liability as a result
18 of a determination rendered by the State's Attorney under
19 subsection (f); and

20 (3) any costs, fees, or liability that results from
21 the unauthorized filing or recording shall be the sole
22 responsibility of the person or entity that executed the
23 restrictive covenant modification.