

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, a  
5           residential housing cooperative, or a master association  
6           of a parcel of property subject to an unlawful restrictive  
7           covenant under the following conditions:

8           (A) When a parcel of property subject to an  
9           unlawful restrictive covenant is in a common interest  
10           community association, condominium association, unit  
11           owners' association, residential housing cooperative,  
12           or master association, only the board, acting through  
13           a majority vote, may execute and file a restrictive  
14           covenant modification under this Section. Removal of  
15           an unlawful restrictive covenant will not require  
16           approval of the owners or members of such association  
17           or cooperative, notwithstanding any provision of the  
18           governing documents to the contrary. As used in  
19           subparagraphs (A) through (D), "board" means the board  
20           of managers or directors or the managing trustees of  
21           any such association or cooperative.

22           (B) If the board receives a written request by an  
23           owner or member of the association or cooperative that  
24           the board exercise its authority to execute and file a  
25           restrictive covenant modification under this Section,  
26           the board shall, within 90 days, investigate any claim

1 of an unlawful restrictive covenant and, if determined  
2 to be an unlawful restrictive covenant, shall execute  
3 and file a restrictive covenant modification as  
4 provided under this Section.

5 (C) If a board fails or refuses to execute and file  
6 a restrictive covenant modification after it receives  
7 a written request by an owner or member as provided in  
8 subparagraph (B), the owner or member who made the  
9 written request may bring an action to compel the  
10 board to file a restrictive covenant modification. Any  
11 owner or member who prevails in such an action to  
12 compel shall be entitled to recover reasonable  
13 attorneys' fees and costs from the association or  
14 cooperative.

15 (D) The board shall give written notice to all  
16 owners or members of the association of the  
17 restrictive covenant modification along with a copy of  
18 such restrictive covenant modification within 21 days  
19 after receiving a recorded copy of the documents.

20 (c) A restrictive covenant modification shall include:

21 (1) a complete copy of the original instrument  
22 containing the unlawful restrictive covenant with the  
23 language of the unlawful restrictive covenant stricken;  
24 and

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

1       (d) A petition to modify an unlawful restrictive covenant  
2 shall:

3           (1) be signed by the record owner of the property or,  
4 in the case of an entity under paragraph (2) of subsection  
5 (b), be accompanied by a certification that a majority of  
6 the governing body of the entity has agreed to the  
7 restrictive covenant modification;

8           (2) reference the property index number or unique  
9 parcel identification code of the property for which the  
10 original instrument containing the unlawful restrictive  
11 covenant is recorded; and

12           (3) include any other information that the recorder or  
13 State's Attorney considers necessary in carrying out the  
14 requirements of this Section.

15       (e) On receipt of a restrictive covenant modification, the  
16 recorder shall submit the restrictive covenant modification  
17 together with a copy of the original instrument referenced in  
18 the restrictive covenant modification to the State's Attorney.

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

21           (1) review the restrictive covenant modification and  
22 the copy of the original instrument to determine: (i)  
23 whether the original instrument contains an unlawful  
24 restrictive covenant; and (ii) whether the restrictive  
25 covenant modification correctly strikes through only the  
26 language of the unlawful restrictive covenant; and

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

4           (g) The recorder may not record a restrictive covenant  
5           modification filed under subsection (b) unless the State's  
6           Attorney determines that the modification is appropriate in  
7           accordance with subsection (f). If the State's Attorney's  
8           written determination finds that the instrument contains an  
9           unlawful restrictive covenant, the recorder shall record the  
10           restrictive covenant modification with the language stricken  
11           as directed by the State's Attorney.

12           (h) A recorded restrictive covenant modification shall be  
13           indexed in the same manner as the original instrument.

14           (i) Subject to all lawful covenants, conditions, and  
15           restrictions that were recorded after the recording of the  
16           original instrument, the restrictions contained in a duly  
17           recorded restrictive covenant modification are the only  
18           restrictions based on the original instrument that apply to  
19           the property.

20           (j) The effective date of the terms and conditions  
21           contained in a duly recorded restrictive covenant modification  
22           shall be the same as the effective date of the original  
23           instrument.

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

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

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

6           (3) any costs, fees, or liability that results from  
7           the unauthorized filing or recording shall be the sole  
8           responsibility of the person or entity that executed the  
9           restrictive covenant modification.

10          (1) The recorder may impose a fee for filing a restrictive  
11          covenant modification to an unlawful restrictive covenant  
12          pursuant to this Section in an amount not to exceed \$10.