

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.