

SENATE BILL 621

N1, D5

8lr0615

By: **Senators Conway, Benson, Currie, Feldman, Ferguson, Guzzone, Kagan, Kelley, King, Lee, Madaleno, McFadden, Miller, Nathan-Pulliam, Oaks, Pinsky, Ramirez, Robinson, Rosapepe, Smith, and Zucker**

Introduced and read first time: February 1, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Deletion of Ownership Restrictions Based on Race, Religious**
3 **Belief, or National Origin**

4 FOR the purpose of authorizing a person who holds an ownership interest in property that
5 the person believes is subject to a certain unlawfully restrictive covenant to execute
6 and record a restrictive covenant modification in a certain manner; establishing the
7 effect of a restrictive covenant modification; providing that any liability that results
8 from a certain unauthorized recordation is the sole responsibility of a certain person;
9 requiring the governing body of a homeowners association to delete any recorded
10 covenant or restriction that restricts ownership based on race, religious belief, or
11 national origin from the deeds or other declarations of property in the development,
12 on or before a certain date; authorizing the governing body of a homeowners
13 association to make a certain deletion without the approval of the lot owners,
14 notwithstanding the provisions of a governing document; requiring the governing
15 body of the homeowners association to record a certain amendment with the clerk of
16 the court in a certain jurisdiction; authorizing a certain person to provide written
17 notice to the governing body of a homeowners association requesting a certain
18 deletion, beginning on a certain date; providing that the failure to delete a certain
19 covenant or restriction within a certain number of days after receiving a certain
20 notice is a discriminatory housing practice and is subject to certain enforcement
21 provisions; prohibiting the assessment of a civil penalty for violating certain
22 provisions of this Act; providing that certain fees and surcharges on the recordation
23 of instruments among the land records do not apply to the recordation of a certain
24 restrictive covenant modification or an amendment to the deeds or other declarations
25 of a homeowners association that deletes a certain covenant or restriction in
26 accordance with this Act; defining and altering certain terms; making conforming
27 changes; providing for the termination of certain provisions of this Act; and generally
28 relating to the deletion of recorded covenants or restrictions that restrict ownership
29 based on race, religious belief, or national origin from deeds, declarations, and other

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 instruments.

2 BY repealing and reenacting, with amendments,
3 Article – Courts and Judicial Proceedings
4 Section 13–604(c)
5 Annotated Code of Maryland
6 (2013 Replacement Volume and 2017 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article – Real Property
9 Section 3–102(a)(2), 3–104(g)(1), 3–601(a), and 11B–113.3
10 Annotated Code of Maryland
11 (2015 Replacement Volume and 2017 Supplement)

12 BY adding to
13 Article – Real Property
14 Section 3–112
15 Annotated Code of Maryland
16 (2015 Replacement Volume and 2017 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – State Government
19 Section 20–701(a) and 20–1020(a)
20 Annotated Code of Maryland
21 (2014 Replacement Volume and 2017 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – State Government
24 Section 20–701(c), 20–1020(b) and (e), and 20–1028(b)
25 Annotated Code of Maryland
26 (2014 Replacement Volume and 2017 Supplement)

27 BY adding to
28 Article – State Government
29 Section 20–705.1
30 Annotated Code of Maryland
31 (2014 Replacement Volume and 2017 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
33 That the Laws of Maryland read as follows:

34 **Article – Real Property**

35 3–102.

36 (a) (2) The following instruments also may be recorded:

1 (i) Any notice of deferred property footage assessment for street
2 construction;

3 (ii) Any boundary survey plat signed and sealed by a professional
4 land surveyor or property line surveyor licensed in the State;

5 (iii) Any assumption agreement by which a person agrees to assume
6 the liability of a debt or other obligation secured by a mortgage or deed of trust;

7 (iv) Any release of personal liability of a borrower or guarantor under
8 a mortgage or under a note or other obligation secured by a deed of trust;

9 (v) A ground rent redemption certificate or a ground rent
10 extinguishment certificate issued under § 8–110 of this article; [or]

11 (vi) An affordable housing land trust agreement executed under Title
12 14, Subtitle 5 of this article with any transfer of property for which an affordable housing
13 land trust has a reversionary interest; **OR**

14 **(VII) A RESTRICTIVE COVENANT MODIFICATION EXECUTED**
15 **UNDER § 3–112 OF THIS SUBTITLE.**

16 3–104.

17 (g) (1) This subsection does not apply to:

18 (i) An assignment of a mortgage or if presented for recordation, an
19 assignment of a deed of trust;

20 (ii) A release of a deed of trust or mortgage;

21 (iii) A substitution of trustees on a deed of trust;

22 (iv) A power of attorney; [or]

23 (v) A financing statement or an amendment, continuation, release,
24 or termination of a financing statement recorded in land records; **OR**

25 **(VI) A RESTRICTIVE COVENANT MODIFICATION EXECUTED**
26 **UNDER § 3–112 OF THIS SUBTITLE.**

27 **3–112.**

28 **(A) IN THIS SECTION, “UNLAWFULLY RESTRICTIVE COVENANT” MEANS ANY**
29 **RECORDED COVENANT OR RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON**
30 **RACE, RELIGIOUS BELIEF, OR NATIONAL ORIGIN.**

1 **(B) THIS SECTION DOES NOT APPLY TO AN UNLAWFULLY RESTRICTIVE**
2 **COVENANT THAT IS PART OF A DECLARATION, UNIFORM GENERAL SCHEME, OR PLAN**
3 **OF DEVELOPMENT OF A HOMEOWNERS ASSOCIATION.**

4 **(C) A PERSON WHO HOLDS AN OWNERSHIP INTEREST IN PROPERTY THAT**
5 **THE PERSON BELIEVES IS SUBJECT TO AN UNLAWFULLY RESTRICTIVE COVENANT**
6 **MAY EXECUTE AND RECORD A RESTRICTIVE COVENANT MODIFICATION IN**
7 **ACCORDANCE WITH THIS SECTION.**

8 **(D) (1) A RESTRICTIVE COVENANT MODIFICATION SHALL:**

9 **(I) CONSIST OF A COMPLETE COPY OF THE ORIGINAL**
10 **INSTRUMENT CONTAINING THE UNLAWFULLY RESTRICTIVE COVENANT WITH THE**
11 **LANGUAGE OF THE UNLAWFULLY RESTRICTIVE COVENANT STRICKEN; AND**

12 **(II) BE ACCOMPANIED BY A COMPLETE RESTRICTIVE**
13 **COVENANT MODIFICATION INTAKE SHEET, ON THE FORM THAT THE**
14 **ADMINISTRATIVE OFFICE OF THE COURTS PROVIDES.**

15 **(2) THE RESTRICTIVE COVENANT MODIFICATION INTAKE SHEET**
16 **DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL:**

17 **(I) BE SIGNED BY THE RECORD OWNER OF THE PROPERTY;**

18 **(II) REFERENCE THE BOOK AND PAGE NUMBER OR OTHER**
19 **PLACE WHERE THE ORIGINAL INSTRUMENT CONTAINING THE UNLAWFULLY**
20 **RESTRICTIVE COVENANT IS RECORDED; AND**

21 **(III) INCLUDE ANY OTHER INFORMATION THAT THE**
22 **ADMINISTRATIVE OFFICE OF THE COURTS CONSIDERS NECESSARY IN CARRYING**
23 **OUT THE REQUIREMENTS OF THIS SECTION.**

24 **(E) (1) ON RECEIPT OF A RESTRICTIVE COVENANT MODIFICATION, THE**
25 **CLERK OF THE CIRCUIT COURT SHALL SUBMIT THE RESTRICTIVE COVENANT**
26 **MODIFICATION TOGETHER WITH A COPY OF THE ORIGINAL INSTRUMENT**
27 **REFERENCED IN THE RESTRICTIVE COVENANT MODIFICATION TO THE COUNTY**
28 **ATTORNEY.**

29 **(2) THE COUNTY ATTORNEY SHALL:**

30 **(I) REVIEW THE RESTRICTIVE COVENANT MODIFICATION AND**
31 **THE COPY OF THE ORIGINAL INSTRUMENT TO DETERMINE:**

1 1. **WHETHER THE ORIGINAL INSTRUMENT CONTAINS AN**
2 **UNLAWFULLY RESTRICTIVE COVENANT; AND**

3 2. **WHETHER THE RESTRICTIVE COVENANT**
4 **MODIFICATION CORRECTLY STRIKES THROUGH ONLY THE LANGUAGE OF THE**
5 **UNLAWFULLY RESTRICTIVE COVENANT; AND**

6 (ii) **ON COMPLETION OF THE REVIEW, RETURN THE**
7 **RESTRICTIVE COVENANT MODIFICATION AND COPY OF THE ORIGINAL TO THE CLERK**
8 **OF THE CIRCUIT COURT TOGETHER WITH THE COUNTY ATTORNEY'S**
9 **DETERMINATION.**

10 (3) **THE CLERK OF THE CIRCUIT COURT MAY NOT RECORD A**
11 **RESTRICTIVE COVENANT MODIFICATION UNLESS THE COUNTY ATTORNEY**
12 **DETERMINES THAT THE MODIFICATION IS APPROPRIATE IN ACCORDANCE WITH**
13 **PARAGRAPH (2) OF THIS SUBSECTION.**

14 (f) **A RESTRICTIVE COVENANT MODIFICATION SHALL BE INDEXED IN THE**
15 **SAME MANNER AS THE ORIGINAL INSTRUMENT.**

16 (g) (1) **SUBJECT TO ALL COVENANTS, CONDITIONS, AND RESTRICTIONS**
17 **THAT WERE RECORDED AFTER THE RECORDING OF THE ORIGINAL INSTRUMENT,**
18 **THE RESTRICTIONS CONTAINED IN THE RESTRICTIVE COVENANT MODIFICATION,**
19 **ONCE RECORDED, ARE THE ONLY RESTRICTIONS BASED ON THE ORIGINAL**
20 **INSTRUMENT THAT APPLY TO THE PROPERTY.**

21 (2) **THE EFFECTIVE DATE OF THE TERMS AND CONDITIONS**
22 **CONTAINED IN THE RESTRICTIVE COVENANT MODIFICATION SHALL BE THE SAME AS**
23 **THE EFFECTIVE DATE OF THE ORIGINAL INSTRUMENT.**

24 (h) **IF A PERSON CAUSES TO BE RECORDED A RESTRICTIVE COVENANT**
25 **MODIFICATION THAT CONTAINS MODIFICATIONS NOT AUTHORIZED UNDER THIS**
26 **SECTION:**

27 (1) **THE CLERK OF THE CIRCUIT COURT MAY NOT INCUR ANY**
28 **LIABILITY FOR RECORDING THE RESTRICTIVE COVENANT MODIFICATION;**

29 (2) **THE COUNTY MAY NOT INCUR ANY LIABILITY AS A RESULT OF A**
30 **DETERMINATION RENDERED BY THE COUNTY ATTORNEY UNDER SUBSECTION (E) OF**
31 **THIS SECTION; AND**

32 (3) **ANY LIABILITY THAT RESULTS FROM THE UNAUTHORIZED**

1 RECORDATION SHALL BE THE SOLE RESPONSIBILITY OF THE PERSON THAT
2 EXECUTED THE RESTRICTIVE COVENANT MODIFICATION.

3 11B-113.3.

4 (a) This section applies to any recorded covenant or restriction that restricts
5 ownership based on race, religious belief, or national origin, including a covenant or
6 restriction that is part of a uniform general scheme or plan of development.

7 [(b) Except as provided in subsection (c) of this section, a homeowners association
8 may delete a recorded covenant or restriction that restricts ownership based on race,
9 religious belief, or national origin from the deeds or other declarations of property in the
10 development if at least 85% of the lot owners in the development agree to the deletion of
11 the recorded covenant or restriction from the deeds or other declarations.

12 (c) If the deeds or other declarations of property in the development expressly
13 provide for a method of amendment or deletion of a recorded covenant or restriction, a
14 recorded covenant or restriction that restricts ownership based on race, religious belief, or
15 national origin may be deleted as provided for in the deeds or declarations or in accordance
16 with subsection (b) of this section.]

17 **(B) (1) ON OR BEFORE SEPTEMBER 30, 2019, THE GOVERNING BODY OF**
18 **A HOMEOWNERS ASSOCIATION SHALL DELETE ANY RECORDED COVENANT OR**
19 **RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE, RELIGIOUS BELIEF, OR**
20 **NATIONAL ORIGIN FROM THE DEEDS OR OTHER DECLARATIONS OF PROPERTY IN**
21 **THE DEVELOPMENT.**

22 **(2) NOTWITHSTANDING THE PROVISIONS OF A GOVERNING**
23 **DOCUMENT, THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION MAY DELETE**
24 **A RECORDED COVENANT OR RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON**
25 **RACE, RELIGIOUS BELIEF, OR NATIONAL ORIGIN FROM THE DEEDS OR OTHER**
26 **DECLARATIONS OF PROPERTY IN THE DEVELOPMENT WITHOUT APPROVAL OF THE**
27 **LOT OWNERS.**

28 [(d) (3) [After the lot owners in the development agree to the deletion of a
29 recorded covenant or restriction that restricts ownership based on race, religious belief, or
30 national origin as provided in subsection (a) of this section, the] **THE** governing body of the
31 homeowners association shall record with the clerk of the court in the jurisdiction where
32 the development is located an amendment to the deeds or other declarations that include
33 the recorded covenant or restriction[, executed by at least 85% of the lot owners in the
34 development,] that provides for the deletion of the recorded covenant or restriction from
35 the deeds or declarations of the property in the development.

36 **(C) (1) BEGINNING ON OCTOBER 1, 2019, ANY PERSON MAY PROVIDE**
37 **WRITTEN NOTICE TO THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION**

1 REQUESTING THE DELETION OF A RECORDED COVENANT OR RESTRICTION THAT
 2 RESTRICTS OWNERSHIP BASED ON RACE, RELIGIOUS BELIEF, OR NATIONAL ORIGIN
 3 FROM THE DEEDS OR OTHER DECLARATIONS OF PROPERTY IN THE DEVELOPMENT,
 4 IN ACCORDANCE WITH THIS SECTION.

5 **(2) THE FAILURE TO DELETE A COVENANT OR RESTRICTION WITHIN**
 6 **30 DAYS AFTER RECEIVING WRITTEN NOTICE UNDER THIS SUBSECTION IS A**
 7 **DISCRIMINATORY HOUSING PRACTICE AND IS SUBJECT TO THE ENFORCEMENT**
 8 **PROVISIONS CONTAINED IN TITLE 20 OF THE STATE GOVERNMENT ARTICLE.**

9 **Article – State Government**

10 20–701.

11 (a) In this subtitle the following words have the meanings indicated.

12 (c) “Discriminatory housing practice” means an act that is prohibited under §
 13 20–705, **§ 20–705.1**, § 20–706, § 20–707, or § 20–708 of this subtitle.

14 **20–705.1.**

15 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
 16 **INDICATED.**

17 **(2) “DECLARATION” HAS THE MEANING STATED IN § 11B–101 OF THE**
 18 **REAL PROPERTY ARTICLE.**

19 **(3) “DEVELOPMENT” HAS THE MEANING STATED IN § 11B–101 OF**
 20 **THE REAL PROPERTY ARTICLE.**

21 **(4) “GOVERNING BODY” HAS THE MEANING STATED IN § 11B–101 OF**
 22 **THE REAL PROPERTY ARTICLE.**

23 **(5) “HOMEOWNERS ASSOCIATION” HAS THE MEANING STATED IN §**
 24 **11B–101 OF THE REAL PROPERTY ARTICLE.**

25 **(B) BEGINNING OCTOBER 1, 2019, THE GOVERNING BODY OF A**
 26 **HOMEOWNERS ASSOCIATION MAY NOT FAIL TO DELETE A RECORDED COVENANT OR**
 27 **RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE, RELIGIOUS BELIEF, OR**
 28 **NATIONAL ORIGIN FROM THE DEEDS OR OTHER DECLARATIONS OF PROPERTY IN**
 29 **THE DEVELOPMENT WITHIN 30 DAYS AFTER RECEIVING A WRITTEN NOTICE UNDER**
 30 **§ 11B–113.3 OF THE REAL PROPERTY ARTICLE.**

31 20–1020.

1 (a) In this part the following words have the meanings indicated.

2 (b) “Aggrieved person” means:

3 (1) any person that claims to have been injured by a discriminatory
4 housing practice; AND

5 (2) **FOR PURPOSES OF § 20–705.1 OF THIS TITLE, ANY PERSON THAT**
6 **SUBMITS A WRITTEN NOTICE TO THE GOVERNING BODY OF A HOMEOWNERS**
7 **ASSOCIATION REQUESTING THE DELETION OF A RECORDED COVENANT OR**
8 **RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE, RELIGIOUS BELIEF, OR**
9 **NATIONAL ORIGIN FROM THE DEEDS OR OTHER DECLARATIONS OF PROPERTY IN**
10 **THE DEVELOPMENT.**

11 (e) “Discriminatory housing practice” means an act that is prohibited under §
12 20–705, **§ 20–705.1**, § 20–706, § 20–707, or § 20–708 of this title.

13 20–1028.

14 (b) (1) If the administrative law judge finds that a respondent has engaged or
15 is about to engage in a discriminatory housing practice, the administrative law judge shall
16 promptly issue an order for appropriate relief, which may include actual damages suffered
17 by the aggrieved person and injunctive or other equitable relief.

18 (2) (i) Except as provided in [subparagraph] **SUBPARAGRAPHS (ii)**
19 **AND (III)** of this paragraph, the order may assess a civil penalty against the respondent, to
20 be paid to the General Fund of the State:

21 1. if the respondent has not been adjudicated to have
22 committed any prior discriminatory housing practice, in an amount not exceeding \$10,000;

23 2. if the respondent has been adjudicated to have committed
24 one other discriminatory housing practice during the 5–year period ending on the date of
25 the filing of the current charge, in an amount not exceeding \$25,000; and

26 3. if the respondent has been adjudicated to have committed
27 two or more discriminatory housing practices during the 7–year period ending on the date
28 of the filing of the current charge, in an amount not exceeding \$50,000.

29 (ii) If the discriminatory housing practice is committed by an
30 individual who has been previously adjudicated to have committed one or more
31 discriminatory housing practices, the time periods set forth in paragraph (2)(i)2 and 3 of
32 this subsection do not apply.

33 **(III) A CIVIL PENALTY MAY NOT BE ASSESSED FOR A VIOLATION**

1 **OF § 20–705.1 OF THIS TITLE.**

2 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
3 as follows:

4 **Article – Courts and Judicial Proceedings**

5 13–604.

6 (c) The surcharge may not be charged [to]:

7 **(1) TO** an entity that is exempt from the payment of fees under §
8 3–603 of the Real Property Article;

9 **(2) FOR THE RECORDATION OF A RESTRICTIVE COVENANT**
10 **MODIFICATION EXECUTED UNDER § 3–112 OF THE REAL PROPERTY ARTICLE; OR**

11 **(3) FOR THE RECORDATION OF AN AMENDMENT TO THE DEEDS OR**
12 **OTHER DECLARATIONS OF A HOMEOWNERS ASSOCIATION THAT DELETES A**
13 **RECORDED COVENANT OR RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON**
14 **RACE, RELIGIOUS BELIEF, OR NATIONAL ORIGIN IN ACCORDANCE WITH § 11B–113.3**
15 **OF THE REAL PROPERTY ARTICLE.**

16 **Article – Real Property**

17 3–601.

18 (a) (1) In this subsection, “page” means one side of a leaf not larger than 8 1/2
19 inches wide by 14 inches long, or any portion of it.

20 (2) [Before] **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**
21 **SUBSECTION, BEFORE** recording an instrument among the land or financing records, a
22 clerk shall collect:

23 (i) \$10 for a release 9 pages or less in length;

24 (ii) \$20 for any other instrument 9 pages or less in length;

25 (iii) Except as provided in item (i) of this paragraph, \$20 for an
26 instrument, regardless of length, involving solely a principal residence; and

27 (iv) \$75 for any other instrument 10 pages or more in length.

28 (3) The recording costs under this subsection shall also apply to
29 instruments required to be recorded in the financing statement records of the State
30 Department of Assessments and Taxation.

1 **(4) A CLERK MAY NOT COLLECT A FEE FOR THE RECORDATION OF:**

2 **(I) A RESTRICTIVE COVENANT MODIFICATION EXECUTED**
3 **UNDER § 3-112 OF THIS ARTICLE; OR**

4 **(II) AN AMENDMENT TO THE DEEDS OR OTHER DECLARATIONS**
5 **OF A HOMEOWNERS ASSOCIATION THAT DELETES A RECORDED COVENANT OR**
6 **RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE, RELIGIOUS BELIEF, OR**
7 **NATIONAL ORIGIN IN ACCORDANCE WITH § 11B-113.3 OF THIS ARTICLE.**

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2018. Section 2 of this Act shall remain effective for a period of 1 year and, at
10 the end of September 30, 2019, Section 2 of this Act, with no further action required by the
11 General Assembly, shall be abrogated and of no further force and effect.