

HOUSE BILL 1042

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2004 Regular Session  
4r1485  
CF 4r1547

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By: **Delegates Rosenberg, Carter, Oaks, Gutierrez, Hurson, and Madaleno**  
Introduced and read first time: February 12, 2004  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 17, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Homeowners Associations - Recorded Covenants or Restrictions - Deletion**  
3 **of Ownership Restrictions Based on Race ~~or, Religion~~ Religious Belief, or**  
4 **National Origin**

5 FOR the purpose of authorizing a homeowners association to delete a recorded  
6 covenant or restriction that restricts ownership of property based on race ~~or,~~  
7 religious belief, or national origin if a certain percentage of owners agree to the  
8 deletion or as provided in certain deeds or declarations under certain  
9 circumstances; requiring the governing body of a homeowners association to  
10 record with a certain clerk of the court a ~~certain an~~ amendment to certain deeds  
11 and other declarations of certain property ~~stating that a certain percentage of~~  
12 ~~lot owners have agreed to~~ that provides for the deletion of a certain recorded  
13 covenant or restriction under certain circumstances; ~~specifying that certain~~  
14 ~~provisions apply to covenants and restrictions even if the covenant or restriction~~  
15 ~~is part of a uniform general scheme or plan of development providing for the~~  
16 application of this Act; and generally relating to recorded covenants or  
17 restrictions of a homeowners association that restrict ownership on the basis of  
18 race ~~or,~~ religious belief, or national origin.

19 BY adding to  
20 Article - Real Property  
21 Section 11B-113.1  
22 Annotated Code of Maryland  
23 (2003 Replacement Volume and 2003 Supplement)

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## Preamble

2 WHEREAS, There exists in Maryland property burdened by restrictive  
3 covenants based on race ~~or~~, religious belief, or national origin that run with the land;  
4 and

5 WHEREAS, The Supreme Court in Shelley v. Kraemer, 334 U.S. 1 (1948), held  
6 that judicial enforcement of a restrictive covenant based on race would constitute  
7 state action, and therefore would violate the Fourteenth Amendment to the U.S.  
8 Constitution; and

9 WHEREAS, The federal Fair Housing Act prohibits discrimination in the sale,  
10 rental, and financing of dwellings based on race, religion, sex, handicap, familial  
11 status, or national origin; and

12 WHEREAS, Under common law, unless the covenants or other restrictions  
13 expressly provide to the contrary, covenants that run with the land may only be  
14 removed by a unanimous vote of the land owners of each parcel of land burdened or  
15 benefitted by the covenant or other restrictions; and

16 WHEREAS, In order to facilitate the removal of restrictive covenants based on  
17 race ~~or~~, religious belief, or national origin, a change in common law regarding the  
18 removal or alteration of such covenants would be beneficial; now, therefore,

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

21

**Article - Real Property**

22 11B-113.1.

23 (A) THIS SECTION APPLIES TO ANY RECORDED COVENANT OR RESTRICTION  
24 THAT RESTRICTS OWNERSHIP BASED ON RACE ~~OR~~, RELIGIOUS BELIEF, OR NATIONAL  
25 ORIGIN, INCLUDING A COVENANT OR RESTRICTION THAT IS PART OF A UNIFORM  
26 GENERAL SCHEME OR PLAN OF DEVELOPMENT.

27 (B) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A  
28 HOMEOWNERS ASSOCIATION MAY DELETE A RECORDED COVENANT OR  
29 RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE ~~OR~~, RELIGIOUS BELIEF,  
30 OR NATIONAL ORIGIN FROM THE DEEDS OR OTHER DECLARATIONS OF PROPERTY IN  
31 THE DEVELOPMENT IF AT LEAST 85% OF THE LOT OWNERS IN THE DEVELOPMENT  
32 AGREE TO THE DELETION OF THE RECORDED COVENANT OR RESTRICTION FROM  
33 THE DEEDS OR OTHER DECLARATIONS.

34 (C) IF THE DEEDS OR OTHER DECLARATIONS OF PROPERTY IN THE  
35 DEVELOPMENT EXPRESSLY PROVIDE FOR A METHOD OF AMENDMENT OR DELETION  
36 OF A RECORDED COVENANT OR RESTRICTION, A RECORDED COVENANT OR  
37 RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE ~~OR~~, RELIGIOUS BELIEF,  
38 OR NATIONAL ORIGIN MAY BE DELETED AS PROVIDED FOR IN THE DEEDS OR  
39 DECLARATIONS OR IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

1 (D) AFTER THE LOT OWNERS IN THE DEVELOPMENT AGREE TO THE  
2 DELETION OF A RECORDED COVENANT OR RESTRICTION THAT RESTRICTS  
3 OWNERSHIP BASED ON RACE ~~OR~~ RELIGIOUS BELIEF, OR NATIONAL ORIGIN AS  
4 PROVIDED IN SUBSECTION (A) OF THIS SECTION, THE GOVERNING BODY OF THE  
5 HOMEOWNERS ASSOCIATION SHALL RECORD WITH THE CLERK OF THE COURT IN  
6 THE JURISDICTION WHERE THE DEVELOPMENT IS LOCATED AN AMENDMENT TO  
7 THE DEEDS OR OTHER DECLARATIONS THAT INCLUDE THE RECORDED COVENANT  
8 OR RESTRICTION, EXECUTED BY AT LEAST 85% OF THE LOT OWNERS IN THE  
9 DEVELOPMENT, THAT PROVIDES FOR THE DELETION OF THE RECORDED COVENANT  
10 OR RESTRICTION FROM THE DEEDS OR DECLARATIONS OF THE PROPERTY IN THE  
11 DEVELOPMENT.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2004.