

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~~ Zucker, Brochin, Muse, Ready, and Zirkin**

Introduced and read first time: February 1, 2018

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 2018

CHAPTER _____

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 common area deeds or other declarations of property in the
12 development, on or before a certain date; authorizing the governing body of a
13 homeowners association to make a certain deletion without the approval of the lot
14 owners, notwithstanding the provisions of a governing document; requiring the
15 governing body of the homeowners association to record a certain amendment with
16 the clerk of the court in a certain jurisdiction; ~~authorizing a certain person to provide~~
17 ~~written notice to the governing body of a homeowners association requesting a~~
18 ~~certain deletion, beginning on a certain date; providing that the failure to delete a~~
19 ~~certain covenant or restriction within a certain number of days after receiving a~~
20 ~~certain notice is a discriminatory housing practice and is subject to certain~~
21 ~~enforcement provisions; prohibiting the assessment of a civil penalty for violating~~
22 ~~certain provisions of this Act~~ requiring the governing body of a homeowners

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 association to make a certain deletion within a certain number of days after receiving
 2 a written request from a lot owner, beginning on a certain date; providing that
 3 certain fees and surcharges on the recordation of instruments among the land
 4 records do not apply to the recordation of a certain restrictive covenant modification
 5 or an amendment to the common area deeds or other declarations of a homeowners
 6 association that deletes a certain covenant or restriction in accordance with this Act;
 7 defining and altering certain terms a certain term; making conforming changes;
 8 providing for the termination of certain provisions of this Act; and generally relating
 9 to the deletion of recorded covenants or restrictions that restrict ownership based on
 10 race, religious belief, or national origin from deeds, declarations, and other
 11 instruments.

12 BY repealing and reenacting, with amendments,
 13 Article – Courts and Judicial Proceedings
 14 Section 13–604(c)
 15 Annotated Code of Maryland
 16 (2013 Replacement Volume and 2017 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article – Real Property
 19 Section 3–102(a)(2), 3–104(g)(1), 3–601(a), and 11B–113.3
 20 Annotated Code of Maryland
 21 (2015 Replacement Volume and 2017 Supplement)

22 BY adding to
 23 Article – Real Property
 24 Section 3–112
 25 Annotated Code of Maryland
 26 (2015 Replacement Volume and 2017 Supplement)

27 ~~BY repealing and reenacting, without amendments,~~
 28 ~~Article – State Government~~
 29 ~~Section 20–701(a) and 20–1020(a)~~
 30 ~~Annotated Code of Maryland~~
 31 ~~(2014 Replacement Volume and 2017 Supplement)~~

32 ~~BY repealing and reenacting, with amendments,~~
 33 ~~Article – State Government~~
 34 ~~Section 20–701(e), 20–1020(b) and (c), and 20–1028(b)~~
 35 ~~Annotated Code of Maryland~~
 36 ~~(2014 Replacement Volume and 2017 Supplement)~~

37 ~~BY adding to~~
 38 ~~Article – State Government~~
 39 ~~Section 20–705.1~~
 40 ~~Annotated Code of Maryland~~
 41 ~~(2014 Replacement Volume and 2017 Supplement)~~

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

3 **Article – Real Property**

4 3–102.

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

6 (i) Any notice of deferred property footage assessment for street
7 construction;

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

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

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

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

16 (vi) An affordable housing land trust agreement executed under Title
17 14, Subtitle 5 of this article with any transfer of property for which an affordable housing
18 land trust has a reversionary interest; **OR**

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

21 3–104.

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

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

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

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

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

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

3 (VI) A RESTRICTIVE COVENANT MODIFICATION EXECUTED
4 UNDER § 3-112 OF THIS SUBTITLE.

5 3-112.

6 (A) IN THIS SECTION, "UNLAWFULLY RESTRICTIVE COVENANT" MEANS ANY
7 RECORDED COVENANT OR RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON
8 RACE, RELIGIOUS BELIEF, OR NATIONAL ORIGIN.

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

12 (C) A PERSON WHO HOLDS AN OWNERSHIP INTEREST IN PROPERTY THAT
13 THE PERSON BELIEVES IS SUBJECT TO AN UNLAWFULLY RESTRICTIVE COVENANT
14 MAY EXECUTE AND RECORD A RESTRICTIVE COVENANT MODIFICATION IN
15 ACCORDANCE WITH THIS SECTION.

16 (D) (1) A RESTRICTIVE COVENANT MODIFICATION SHALL:

17 (I) CONSIST OF A COMPLETE COPY OF THE ORIGINAL
18 INSTRUMENT CONTAINING THE UNLAWFULLY RESTRICTIVE COVENANT WITH THE
19 LANGUAGE OF THE UNLAWFULLY RESTRICTIVE COVENANT STRICKEN; AND

20 (II) BE ACCOMPANIED BY A COMPLETE RESTRICTIVE
21 COVENANT MODIFICATION INTAKE SHEET, ON THE FORM THAT THE
22 ADMINISTRATIVE OFFICE OF THE COURTS PROVIDES.

23 (2) THE RESTRICTIVE COVENANT MODIFICATION INTAKE SHEET
24 DESCRIBED IN PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL:

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

26 (II) REFERENCE THE BOOK AND PAGE NUMBER OR OTHER
27 PLACE WHERE THE ORIGINAL INSTRUMENT CONTAINING THE UNLAWFULLY
28 RESTRICTIVE COVENANT IS RECORDED; AND

29 (III) INCLUDE ANY OTHER INFORMATION THAT THE
30 ADMINISTRATIVE OFFICE OF THE COURTS CONSIDERS NECESSARY IN CARRYING
31 OUT THE REQUIREMENTS OF THIS SECTION.

1 **(E) (1) ON RECEIPT OF A RESTRICTIVE COVENANT MODIFICATION, THE**
2 **CLERK OF THE CIRCUIT COURT SHALL SUBMIT THE RESTRICTIVE COVENANT**
3 **MODIFICATION TOGETHER WITH A COPY OF THE ORIGINAL INSTRUMENT**
4 **REFERENCED IN THE RESTRICTIVE COVENANT MODIFICATION TO THE COUNTY**
5 **ATTORNEY.**

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

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

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

11 **2. WHETHER THE RESTRICTIVE COVENANT**
12 **MODIFICATION CORRECTLY STRIKES THROUGH ONLY THE LANGUAGE OF THE**
13 **UNLAWFULLY RESTRICTIVE COVENANT; AND**

14 **(II) ON COMPLETION OF THE REVIEW, RETURN THE**
15 **RESTRICTIVE COVENANT MODIFICATION AND COPY OF THE ORIGINAL TO THE CLERK**
16 **OF THE CIRCUIT COURT TOGETHER WITH THE COUNTY ATTORNEY'S**
17 **DETERMINATION.**

18 **(3) THE CLERK OF THE CIRCUIT COURT MAY NOT RECORD A**
19 **RESTRICTIVE COVENANT MODIFICATION UNLESS THE COUNTY ATTORNEY**
20 **DETERMINES THAT THE MODIFICATION IS APPROPRIATE IN ACCORDANCE WITH**
21 **PARAGRAPH (2) OF THIS SUBSECTION.**

22 **(F) A RESTRICTIVE COVENANT MODIFICATION SHALL BE INDEXED IN THE**
23 **SAME MANNER AS THE ORIGINAL INSTRUMENT.**

24 **(G) (1) SUBJECT TO ALL COVENANTS, CONDITIONS, AND RESTRICTIONS**
25 **THAT WERE RECORDED AFTER THE RECORDING OF THE ORIGINAL INSTRUMENT,**
26 **THE RESTRICTIONS CONTAINED IN THE RESTRICTIVE COVENANT MODIFICATION,**
27 **ONCE RECORDED, ARE THE ONLY RESTRICTIONS BASED ON THE ORIGINAL**
28 **INSTRUMENT THAT APPLY TO THE PROPERTY.**

29 **(2) THE EFFECTIVE DATE OF THE TERMS AND CONDITIONS**
30 **CONTAINED IN THE RESTRICTIVE COVENANT MODIFICATION SHALL BE THE SAME AS**
31 **THE EFFECTIVE DATE OF THE ORIGINAL INSTRUMENT.**

32 **(H) IF A PERSON CAUSES TO BE RECORDED A RESTRICTIVE COVENANT**
33 **MODIFICATION THAT CONTAINS MODIFICATIONS NOT AUTHORIZED UNDER THIS**
34 **SECTION:**

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

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

6 **(3) ANY LIABILITY THAT RESULTS FROM THE UNAUTHORIZED**
7 **RECORDATION SHALL BE THE SOLE RESPONSIBILITY OF THE PERSON THAT**
8 **EXECUTED THE RESTRICTIVE COVENANT MODIFICATION.**

9 11B-113.3.

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

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

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

23 **(B) (1) ON OR BEFORE SEPTEMBER 30, 2019, THE GOVERNING BODY OF**
24 **A HOMEOWNERS ASSOCIATION SHALL DELETE ANY RECORDED COVENANT OR**
25 **RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE, RELIGIOUS BELIEF, OR**
26 **NATIONAL ORIGIN FROM THE COMMON AREA DEEDS OR OTHER DECLARATIONS OF**
27 **PROPERTY IN THE DEVELOPMENT.**

28 **(2) NOTWITHSTANDING THE PROVISIONS OF A GOVERNING**
29 **DOCUMENT, THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION MAY DELETE**
30 **A RECORDED COVENANT OR RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON**
31 **RACE, RELIGIOUS BELIEF, OR NATIONAL ORIGIN FROM THE COMMON AREA DEEDS**
32 **OR OTHER DECLARATIONS OF PROPERTY IN THE DEVELOPMENT WITHOUT**
33 **APPROVAL OF THE LOT OWNERS.**

34 [(d) **(3)** [After the lot owners in the development agree to the deletion of a
35 recorded covenant or restriction that restricts ownership based on race, religious belief, or

1 national origin as provided in subsection (a) of this section, the] **THE** governing body of the
 2 homeowners association shall record with the clerk of the court in the jurisdiction where
 3 the development is located an amendment to the COMMON AREA deeds or other
 4 declarations that include the recorded covenant or restriction[, executed by at least 85% of
 5 the lot owners in the development,] that provides for the deletion of the recorded covenant
 6 or restriction from the COMMON AREA deeds or declarations of the property in the
 7 development.

8 **(C) ~~(1) BEGINNING ON OCTOBER 1, 2019, ANY PERSON MAY PROVIDE~~**
 9 **~~WRITTEN NOTICE TO THE GOVERNING BODY OF A HOMEOWNERS ASSOCIATION~~**
 10 **~~REQUESTING THE DELETION OF WITHIN 180 DAYS AFTER RECEIVING A WRITTEN~~**
 11 **~~REQUEST FROM A LOT OWNER, THE GOVERNING BODY OF A HOMEOWNERS~~**
 12 **~~ASSOCIATION SHALL DELETE A RECORDED COVENANT OR RESTRICTION THAT~~**
 13 **~~RESTRICTS OWNERSHIP BASED ON RACE, RELIGIOUS BELIEF, OR NATIONAL ORIGIN~~**
 14 **~~FROM THE COMMON AREA DEEDS OR OTHER DECLARATIONS OF PROPERTY IN THE~~**
 15 **~~DEVELOPMENT, IN ACCORDANCE WITH THIS SECTION.~~**

16 **~~(2) THE FAILURE TO DELETE A COVENANT OR RESTRICTION WITHIN~~**
 17 **~~30 DAYS AFTER RECEIVING WRITTEN NOTICE UNDER THIS SUBSECTION IS A~~**
 18 **~~DISCRIMINATORY HOUSING PRACTICE AND IS SUBJECT TO THE ENFORCEMENT~~**
 19 **~~PROVISIONS CONTAINED IN TITLE 20 OF THE STATE GOVERNMENT ARTICLE.~~**

20 **~~Article State Government~~**

21 **~~20-701.~~**

22 **~~(a) In this subtitle the following words have the meanings indicated.~~**

23 **~~(e) "Discriminatory housing practice" means an act that is prohibited under §~~**
 24 **~~20-705, § 20-705.1, § 20-706, § 20-707, or § 20-708 of this subtitle.~~**

25 **~~20-705.1.~~**

26 **~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS~~**
 27 **~~INDICATED.~~**

28 **~~(2) "DECLARATION" HAS THE MEANING STATED IN § 11B-101 OF THE~~**
 29 **~~REAL PROPERTY ARTICLE.~~**

30 **~~(3) "DEVELOPMENT" HAS THE MEANING STATED IN § 11B-101 OF~~**
 31 **~~THE REAL PROPERTY ARTICLE.~~**

32 **~~(4) "GOVERNING BODY" HAS THE MEANING STATED IN § 11B-101 OF~~**
 33 **~~THE REAL PROPERTY ARTICLE.~~**

~~(5) "HOMEOWNERS ASSOCIATION" HAS THE MEANING STATED IN § 11B-101 OF THE REAL PROPERTY ARTICLE.~~

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

~~20-1020.~~

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

~~(b) "Aggrieved person" means:~~

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

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

~~(c) "Discriminatory housing practice" means an act that is prohibited under § 20-705, § 20-705.1, § 20-706, § 20-707, or § 20-708 of this title.~~

~~20-1028.~~

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

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

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

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

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

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

~~(iii) A CIVIL PENALTY MAY NOT BE ASSESSED FOR A VIOLATION OF § 20-705.1 OF THIS TITLE.~~

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

Article – Courts and Judicial Proceedings

13–604.

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

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

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

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

Article – Real Property

3–601.

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

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

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

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

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

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

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

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

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

15 **(II) AN AMENDMENT TO THE COMMON AREA DEEDS OR OTHER**
 16 **DECLARATIONS OF A HOMEOWNERS ASSOCIATION THAT DELETES A RECORDED**
 17 **COVENANT OR RESTRICTION THAT RESTRICTS OWNERSHIP BASED ON RACE,**
 18 **RELIGIOUS BELIEF, OR NATIONAL ORIGIN IN ACCORDANCE WITH § 11B-113.3 OF**
 19 **THIS ARTICLE.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.