Article - Real Property

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§3–112.

(a) In this section, "unlawfully restrictive covenant" means any recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin.

(b) This section does not apply to an unlawfully restrictive covenant that is part of a declaration, uniform general scheme, or plan of development of a homeowners association, as defined in § 11B–101 of this article.

(c) (1) A person may execute and record a restrictive covenant modification to an unlawfully restrictive covenant in accordance with this section if the person:

(i) Holds an ownership interest in property that the person believes is subject to the unlawfully restrictive covenant; or

(ii) Is a nonprofit entity that is required to enforce within a defined residential neighborhood:

1. Covenants that limit architectural alterations, renovations, landscaping elements, or other modifications to residential lots in the neighborhood; and

2. The unlawfully restrictive covenant.

(2) (i) Subject to subparagraph (ii) of this paragraph, a county or municipality may execute and record a restrictive covenant modification to an unlawfully restrictive covenant in accordance with this section if:

1. The property that the county or municipality believes is subject to an unlawfully restrictive covenant is within the boundaries of the county or municipality; and

2. At least 30 days before executing and recording the restrictive covenant modification, the county or municipality provides written notice in accordance with subparagraph (iii) of this paragraph of the county's or municipality's intent to execute and record the restrictive covenant modification to all persons with an ownership interest in the property.

(ii) A person with an ownership interest in the property may decline to have the restrictive covenant modification executed and recorded by the county or municipality by notifying the county or municipality within 30 days after the date of notice.

(iii) Notice under subparagraph (i)2 of this paragraph shall:

1. Be sent by first–class mail; and

2. Provide information on how a person with an ownership interest in the property may decline to have the restrictive covenant modification executed and recorded by the county or municipality.

(d) (1) A restrictive covenant modification shall:

(i) Consist of a complete copy of the original instrument containing the unlawfully restrictive covenant with the language of the unlawfully restrictive covenant stricken; and

(ii) Be accompanied by a complete restrictive covenant modification intake sheet, on the form that the Administrative Office of the Courts provides.

(2) The restrictive covenant modification intake sheet described in paragraph (1)(ii) of this subsection shall:

(i) 1. Be signed by the record owner of the property; or

2. In the case of a nonprofit entity, be accompanied by a statement that a majority of the governing body of the nonprofit entity has agreed to the restrictive covenant modification;

(ii) Reference the book and page number or other place where the original instrument containing the unlawfully restrictive covenant is recorded; and

(iii) Include any other information that the Administrative Office of the Courts considers necessary in carrying out the requirements of this section.

(e) (1) On receipt of a restrictive covenant modification, the clerk of the circuit court shall submit the restrictive covenant modification together with a copy of the original instrument referenced in the restrictive covenant modification to the county attorney.

(2) The county attorney shall:

(i) Review the restrictive covenant modification and the copy of the original instrument to determine:

1. Whether the original instrument contains an unlawfully restrictive covenant; and

2. Whether the restrictive covenant modification correctly strikes through only the language of the unlawfully restrictive covenant; and

(ii) On completion of the review, return the restrictive covenant modification and copy of the original to the clerk of the circuit court together with the county attorney's determination.

(3) The clerk of the circuit court may not record a restrictive covenant modification unless the county attorney determines that the modification is appropriate in accordance with paragraph (2) of this subsection.

(f) A restrictive covenant modification shall be indexed in the same manner as the original instrument.

(g) (1) Subject to all covenants, conditions, and restrictions that were recorded after the recording of the original instrument, the restrictions contained in the restrictive covenant modification, once recorded, are the only restrictions based on the original instrument that apply to the property.

(2) The effective date of the terms and conditions contained in the restrictive covenant modification shall be the same as the effective date of the original instrument.

(h) If a person causes to be recorded a restrictive covenant modification that contains modifications not authorized under this section:

(1) The clerk of the circuit court may not incur any liability for recording the restrictive covenant modification;

(2) The county may not incur any liability as a result of a determination rendered by the county attorney under subsection (e) of this section; and

(3) Any liability that results from the unauthorized recordation shall be the sole responsibility of the person that executed the restrictive covenant modification.

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