



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5815

Introduced 11/10/2020, by Rep. Daniel Didech

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-5048 new

Amends the Counties Code. Provides that a restrictive covenant modification to an unlawful restrictive covenant may be filed by: (1) the holder of an ownership interest in property that is subject to the unlawful restrictive covenant; or (2) a common interest community association, a condominium association, a unit owners' association, or a master association of a parcel of property subject to the association's declaration and the parcel is subject to an unlawful restrictive covenant. Includes requirements for a restrictive covenant modification and the petition to modify. Provides that, on receipt of a restrictive covenant modification, the recorder shall submit the restrictive covenant modification together with a copy of the original instrument referenced in the restrictive covenant modification to the State's Attorney. Once submitted to the State's Attorney, the State's Attorney shall make a determination within 30 days if the original document contains an unlawful restrictive covenant. Provides that the recorder may not record the modification unless the State's Attorney determines an unlawful restrictive covenant exists and shall record the modification if the State's Attorney finds an unlawful restrictive covenant. Limits liability of the county for unauthorized modifications. Defines terms. Contains other provisions.

LRB101 21664 AWJ 72798 b

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 Section
10 1-5 of the Common Interest Community Association Act or Section
11 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 the
14 Illinois Human Rights Act which purports to forbid or restrict
15 the conveyance, encumbrance, occupancy, or lease thereof on the
16 basis of race, color, religion, or national origin.

17 "Recorder" means the recorder of the county where the
18 property subject to the unlawful restrictive covenant is
19 located.

20 (b) A person or entity may execute and file a restrictive
21 covenant modification to an unlawful restrictive covenant in
22 accordance with this Section if the person or entity:

23 (1) holds an ownership interest in property that is

1 subject to the unlawful restrictive covenant; or

2 (2) is a common interest community association, a
3 condominium association, a unit owners' association, or a
4 master association of a parcel of property subject to the
5 association's declaration and the parcel is subject to an
6 unlawful restrictive covenant.

7 (c) A restrictive covenant modification shall include:

8 (1) a complete copy of the original instrument
9 containing the unlawful restrictive covenant with the
10 language of the unlawful restrictive covenant stricken;
11 and

12 (2) a petition to modify an unlawful restrictive
13 covenant, as provided in subsection (d).

14 (d) A petition to modify an unlawful restrictive covenant
15 shall:

16 (1) be signed by the record owner of the property or,
17 in the case of an entity under paragraph (2) of subsection
18 (b), be accompanied by a certification that a majority of
19 the governing body of the entity has agreed to the
20 restrictive covenant modification;

21 (2) reference the property index number or unique
22 parcel identification code of the property for which the
23 original instrument containing the unlawful restrictive
24 covenant is recorded; and

25 (3) include any other information that the recorder or
26 State's Attorney considers necessary in carrying out the

1 requirements of this Section.

2 (e) On receipt of a restrictive covenant modification, the
3 recorder shall submit the restrictive covenant modification
4 together with a copy of the original instrument referenced in
5 the restrictive covenant modification to the State's Attorney.

6 (f) Within 30 days of receipt from the recorder, the
7 State's Attorney shall:

8 (1) review the restrictive covenant modification and
9 the copy of the original instrument to determine: (i)
10 whether the original instrument contains an unlawful
11 restrictive covenant; and (ii) whether the restrictive
12 covenant modification correctly strikes through only the
13 language of the unlawful restrictive covenant; and

14 (2) return the restrictive covenant modification and
15 copy of the original instrument to the recorder together
16 with the State's Attorney's written determination.

17 (g) The recorder may not record a restrictive covenant
18 modification filed under subsection (b) unless the State's
19 Attorney determines that the modification is appropriate in
20 accordance with subsection (f). If the State's Attorney's
21 written determination finds that the instrument contains an
22 unlawful restrictive covenant, the recorder shall record the
23 restrictive covenant modification with the language stricken
24 as directed by the State's Attorney.

25 (h) A recorded restrictive covenant modification shall be
26 indexed in the same manner as the original instrument.

1 (i) Subject to all lawful covenants, conditions, and
2 restrictions that were recorded after the recording of the
3 original instrument, the restrictions contained in a duly
4 recorded restrictive covenant modification are the only
5 restrictions based on the original instrument that apply to the
6 property.

7 (j) The effective date of the terms and conditions
8 contained in a duly recorded restrictive covenant modification
9 shall be the same as the effective date of the original
10 instrument.

11 (k) If a person or entity causes to be filed or recorded a
12 restrictive covenant modification that contains modifications
13 not authorized under this Section:

14 (1) the recorder may not incur any liability for
15 recording the restrictive covenant modification;

16 (2) the county may not incur any liability as a result
17 of a determination rendered by the State's Attorney under
18 subsection (f); and

19 (3) any costs, fees, or liability that results from the
20 unauthorized filing or recording shall be the sole
21 responsibility of the person or entity that executed the
22 restrictive covenant modification.