



Rep. Daniel Didech

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10200HB0058ham001

LRB102 02671 AWJ 24056 a

1 AMENDMENT TO HOUSE BILL 58

2 AMENDMENT NO. _____. Amend House Bill 58 by replacing
3 everything after the enacting clause with the following:

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

1 origin.

2 "Recorder" means the recorder of the county where the
3 property subject to the unlawful restrictive covenant is
4 located.

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

8 (1) holds an ownership interest in property that is
9 subject to the unlawful restrictive covenant; or

10 (2) is a common interest community association, a
11 condominium association, a unit owners' association, a
12 residential housing cooperative, or a master association
13 of a parcel of property subject to an unlawful restrictive
14 covenant under the following conditions:

15 (A) When a parcel of property subject to an
16 unlawful restrictive covenant is in a common interest
17 community association, condominium association, unit
18 owners' association, residential housing cooperative,
19 or master association, only the board, acting through
20 a majority vote, may execute and file a restrictive
21 covenant modification under this Section. Removal of
22 an unlawful restrictive covenant will not require
23 approval of the owners or members of such association
24 or cooperative, notwithstanding any provision of the
25 governing documents to the contrary. As used in
26 subparagraphs (A) through (D), "board" means the board

1 of managers or directors or the managing trustees of
2 any such association or cooperative.

3 (B) If the board receives a written request by an
4 owner or member of the association or cooperative that
5 the board exercise its authority to execute and file a
6 restrictive covenant modification under this Section,
7 the board shall, within 90 days, investigate any claim
8 of an unlawful restrictive covenant and, if determined
9 to be an unlawful restrictive covenant, shall execute
10 and file a restrictive covenant modification as
11 provided under this Section.

12 (C) If a board fails or refuses to execute and file
13 a restrictive covenant modification after it receives
14 a written request by an owner or member as provided in
15 subparagraph (B), the owner or member who made the
16 written request may bring an action to compel the
17 board to file a restrictive covenant modification. Any
18 owner or member who prevails in such an action to
19 compel shall be entitled to recover reasonable
20 attorneys' fees and costs from the association or
21 cooperative.

22 (D) The board shall give written notice to all
23 owners or members of the association of the
24 restrictive covenant modification along with a copy of
25 such restrictive covenant modification within 21 days
26 after receiving a recorded copy of the documents.

1 (c) A restrictive covenant modification shall include:

2 (1) a complete copy of the original instrument
3 containing the unlawful restrictive covenant with the
4 language of the unlawful restrictive covenant stricken;
5 and

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

8 (d) A petition to modify an unlawful restrictive covenant
9 shall:

10 (1) be signed by the record owner of the property or,
11 in the case of an entity under paragraph (2) of subsection
12 (b), be accompanied by a certification that a majority of
13 the governing body of the entity has agreed to the
14 restrictive covenant modification;

15 (2) reference the property index number or unique
16 parcel identification code of the property for which the
17 original instrument containing the unlawful restrictive
18 covenant is recorded; and

19 (3) include any other information that the recorder or
20 State's Attorney considers necessary in carrying out the
21 requirements of this Section.

22 (e) On receipt of a restrictive covenant modification, the
23 recorder shall submit the restrictive covenant modification
24 together with a copy of the original instrument referenced in
25 the restrictive covenant modification to the State's Attorney.

26 (f) Within 30 days of receipt from the recorder, the

1 State's Attorney shall:

2 (1) review the restrictive covenant modification and
3 the copy of the original instrument to determine: (i)
4 whether the original instrument contains an unlawful
5 restrictive covenant; and (ii) whether the restrictive
6 covenant modification correctly strikes through only the
7 language of the unlawful restrictive covenant; and

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

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

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

21 (i) Subject to all lawful covenants, conditions, and
22 restrictions that were recorded after the recording of the
23 original instrument, the restrictions contained in a duly
24 recorded restrictive covenant modification are the only
25 restrictions based on the original instrument that apply to
26 the property.

1 (j) The effective date of the terms and conditions
2 contained in a duly recorded restrictive covenant modification
3 shall be the same as the effective date of the original
4 instrument.

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

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

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

13 (3) any costs, fees, or liability that results from
14 the unauthorized filing or recording shall be the sole
15 responsibility of the person or entity that executed the
16 restrictive covenant modification.

17 (l) The recorder may impose a fee for filing a restrictive
18 covenant modification to an unlawful restrictive covenant
19 pursuant to this Section in an amount not to exceed \$10."