



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1967

Introduced 2/26/2021, by Sen. Adriane Johnson

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, for a fee not to exceed \$10, 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, except, if a recorder determines that the a restrictive covenant modification submitted is clearly an unlawful restrictive covenant, the recorder may proceed to record the restrictive covenant modification. If the restrictive covenant modification is submitted to the State's Attorney, the State's Attorney shall make a determination within 30 days as to whether the original document contains an unlawful restrictive covenant and the recorder may not record the modification unless the State's Attorney determines an unlawful restrictive covenant exists. Limits liability of a county recorder and county for unauthorized modifications. Defines terms. Contains other provisions.

LRB102 17197 AWJ 22652 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
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
17 origin.

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

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

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

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

8 The recorder may impose a fee for filing a restrictive
9 covenant modification pursuant to this Section in an amount
10 not to exceed \$10.

11 (c) A restrictive covenant modification shall include:

12 (1) a complete copy of the original instrument
13 containing the unlawful restrictive covenant with the
14 language of the unlawful restrictive covenant stricken;
15 and

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

18 (d) A petition to modify an unlawful restrictive covenant
19 shall:

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

25 (2) reference the property index number or unique
26 parcel identification code of the property for which the

1 original instrument containing the unlawful restrictive
2 covenant is recorded; and

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

6 (e) On receipt of a restrictive covenant modification, the
7 recorder shall submit the restrictive covenant modification
8 together with a copy of the original instrument referenced in
9 the restrictive covenant modification to the State's Attorney.
10 However, if a recorder determines that the a restrictive
11 covenant modification submitted is clearly an unlawful
12 restrictive covenant, the recorder may proceed under
13 subsection (g) without submitting documentation required by
14 this subsection to the State's Attorney.

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

17 (1) review the restrictive covenant modification and
18 the copy of the original instrument to determine: (i)
19 whether the original instrument contains an unlawful
20 restrictive covenant; and (ii) whether the restrictive
21 covenant modification correctly strikes through only the
22 language of the unlawful restrictive covenant; and

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

26 (g) The recorder may not record a restrictive covenant

1 modification filed under subsection (b) unless: (i) the
2 State's Attorney determines that the modification is
3 appropriate in accordance with subsection (f); or (ii) the
4 recorder has determined that the restrictive covenant
5 modification submitted is clearly an unlawful restrictive
6 covenant as provided in subsection (e).

7 If the State's Attorney's written determination finds that
8 the instrument contains an unlawful restrictive covenant or
9 the recorder has determined that the restrictive covenant
10 modification submitted is clearly an unlawful restrictive
11 covenant, the recorder shall record the restrictive covenant
12 modification with the unlawful language stricken.

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

15 (i) Subject to all lawful covenants, conditions, and
16 restrictions that were recorded after the recording of the
17 original instrument, the restrictions contained in a duly
18 recorded restrictive covenant modification are the only
19 restrictions based on the original instrument that apply to
20 the property.

21 (j) The effective date of the terms and conditions
22 contained in a duly recorded restrictive covenant modification
23 shall be the same as the effective date of the original
24 instrument.

25 (k) If a person or entity causes to be filed or recorded a
26 restrictive covenant modification that contains modifications

1 not authorized under this Section:

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

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

7 (3) any costs, fees, or liability that results from
8 the unauthorized filing or recording shall be the sole
9 responsibility of the person or entity that executed the
10 restrictive covenant modification.