

# HOUSE BILL NO. 2727

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE PARKER.

5674H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 442.403, RSMo, and to enact in lieu thereof eleven new sections relating to unlawful restrictions in land records.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 442.403, RSMo, is repealed and eleven new sections enacted in lieu thereof, to be known as sections 442.850, 442.853, 442.856, 442.859, 442.862, 442.865, 442.868, 442.872, 442.875, 442.878, and 442.881, to read as follows:

**442.850. Sections 442.850 to 442.881 may be cited as the "Uniform Unlawful Restrictions in Land Records Act".**

**442.853. In sections 442.850 to 442.881:**

- (1) "Amendment" means a document that removes an unlawful restriction;**
- (2) "Document" means a record recorded or eligible to be recorded in land records;**
- (3) "Governing instrument" means a document recorded in land records that:
  - (a) Establishes a governing body responsible for management of common areas or facilities used by more than one owner of a property interest affected by the document; and**
  - (b) Requires contribution, enforceable by a lien on a separate property interest, of a share of taxes, insurance premiums, maintenance, or improvement of, or services or other expenses for the common benefit of, the real property described in the document;****
- (4) "Index" means a system that enables a search for a document in land records;**
- (5) "Land records" means documents and indexes maintained by a recorder;**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 (6) "Owner" means a person that has a fee interest in real property;

16 (7) "Person" means an individual, estate, business or nonprofit entity,  
17 government or governmental subdivision, agency, or instrumentality, or other legal  
18 entity;

19 (8) "Record", used as a noun, means information:

20 (a) Inscribed on a tangible medium; or

21 (b) Stored in an electronic or other medium and retrievable in perceivable form;

22 (9) "Recorder" means an officer authorized under other law of this state to  
23 accept a document for recordation in land records;

24 (10) "Remove" means eliminate, by a recorded amendment, any apparent or  
25 purportedly continuing effect on title to real property;

26 (11) "Unlawful restriction" means a prohibition, restriction, covenant, or  
27 condition in a document that purports to interfere with or restrict the transfer, use, or  
28 occupancy of real property:

29 (a) On the basis of race, color, religion, national origin, sex, familial status,  
30 disability, or other personal characteristics; and

31 (b) In violation of law of this state or federal law.

442.856. Except with respect to property to which section 442.859 applies, an  
2 owner of real property subject to an unlawful restriction may submit to the recorder for  
3 recordation in the land records an amendment to remove the unlawful restriction, but  
4 only as to the owner's property.

442.859. 1. A governing body of an association identified in a governing  
2 instrument may, without a vote of the members of the association, amend the governing  
3 instrument to remove an unlawful restriction.

4 2. A member of an association may request, in a record that sufficiently  
5 identifies an unlawful restriction in the governing instrument, that the governing body  
6 exercise its authority under subsection 1 of this section to remove the restriction. Not  
7 later than ninety days after the governing body receives the request, the governing body  
8 shall determine reasonably and in good faith whether the governing instrument includes  
9 the purported unlawful restriction. If the governing body determines the governing  
10 instrument includes the unlawful restriction, the governing body not later than ninety  
11 days after the determination shall exercise its authority under subsection 1 of this  
12 section to amend the governing instrument to remove the unlawful restriction.

13 3. The governing body may execute an amendment under this section.

14 4. An amendment under this section is effective notwithstanding any provision of  
15 the governing instrument or other law of this state that requires a vote of the members  
16 to amend the governing instrument.

442.862. 1. An amendment under sections 442.850 to 442.881 must identify the owner, the real property affected, the document containing the unlawful restriction, and must state conspicuously in substantially the following form:

"This amendment removes from this deed or other document affecting title to real property an unlawful restriction as defined under the Uniform Unlawful Restrictions in Land Records Act. This amendment does not affect the validity or enforceability of a restriction that is not an unlawful restriction."

2. The amendment does not affect the validity or enforceability of any restriction that is not an unlawful restriction.

3. The amendment or a future conveyance of the affected real property is not a republication of a restriction that otherwise would expire by passage of time under other law of this state.

4. The amendment must be executed and acknowledged in the manner required for recordation of a document in the land records. The amendment must be recorded in the land records of each county in which the document containing the unlawful restriction is recorded.

442.865. The following form may be used by an owner to remove an unlawful restriction by amendment in the land records:

**Amendment by Owner to Remove an Unlawful Restriction**

This Amendment is recorded under this state's Uniform Unlawful Restrictions in Land Records Act, by an Owner of an interest in real property subject to an unlawful restriction as defined by the Act.

(1) Name of Owner: \_\_\_\_\_

(2) Owner's Property that is subject to the unlawful restriction is described as follows:

Address: \_\_\_\_\_

Legal Description: \_\_\_\_\_

This Amendment amends the following described document:

Title of document being amended: \_\_\_\_\_

Recording date of document being amended: \_\_\_\_\_

Recording information (book/page or instrument number): \_\_\_\_\_

This Amendment removes from the document described in subdivision (2) all unlawful restrictions as defined in the Act. Removal of an unlawful restriction through this amendment does not affect the validity and enforceability of any other restriction that is not an unlawful restriction as defined in the Act.

This Amendment is not effective if the property is subject to a governing instrument as defined by the Act.

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\_\_\_\_\_  
Owner's Signature

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\_\_\_\_\_  
Date

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Notary Acknowledgment: \_\_\_\_\_

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Witness (if required): \_\_\_\_\_

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**This amendment removes from the document described in subdivision (2) all unlawful restrictions as defined under the Uniform Unlawful Restrictions in Land Record Act. Removal of an unlawful restriction through this amendment does not affect the validity and enforceability of any other restriction that is not an unlawful restriction as defined in the Act, at the time of filing this amendment. This Amendment is not effective if the property is subject to a governing instrument as defined by the Act.**

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**442.868. 1. The recorder shall record an amendment submitted under sections 442.850 to 442.881, add the amendment to the index, and cross reference the amendment to the document containing the unlawful restriction.**

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**2. The recorder and the recorder's jurisdiction are not liable for recording an amendment under sections 442.850 to 442.881.**

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**442.872. In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.**

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**442.875. Sections 442.850 to 442.881 modify, limit, or supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., as amended, but do not modify, limit, or supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).**

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**442.878. If a provision of sections 442.850 to 442.881 or its application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.**

**442.881. Sections 442.850 to 442.881 take effect on August 28, 2024.**

~~[442.403. 1. Any restrictive covenant recitals on property, real or personal, found in any deeds, plats, restrictions, covenants, or other conveyances of any type or nature, filed for record at any time in the office of the recorder of deeds in any county that relate to the race, color, religion, or national origin of any person shall be void and unenforceable and shall be ignored, as if the same never existed.~~

~~2. Any person or legal entity with an interest in real property or any agent of such person or entity, shall not incur any liability by reason of the mere existence of a restrictive covenant described in subsection 1 of this section in any document filed for record before May 3, 1948, in any recorder of deeds' office.~~

12           3. ~~No deed recorded on or after August 28, 2022, shall contain a~~  
 13 ~~reference to the specific portion of a restrictive covenant purporting to restrict~~  
 14 ~~the ownership or use of the property as prohibited under subsection 1 of this~~  
 15 ~~section. A recorder of deeds may refuse to accept any deed submitted for~~  
 16 ~~recording that references the specific portion of any such restrictive covenant.~~  
 17 ~~The person who prepares or submits a deed for recording has the responsibility~~  
 18 ~~of ensuring that the specific portion of such a restrictive covenant is not~~  
 19 ~~specifically referenced in the deed prior to such deed being submitted for~~  
 20 ~~recording. A deed may include a general provision that states that such deed is~~  
 21 ~~subject to any and all covenants and restrictions of record; however, such~~  
 22 ~~provision shall not apply to the specific portion of a restrictive covenant~~  
 23 ~~purporting to restrict the ownership or use of the property as prohibited under~~  
 24 ~~subsection 1 of this section. Any deed that is recorded after August 27, 2022,~~  
 25 ~~that mistakenly contains such a restrictive covenant shall nevertheless~~  
 26 ~~constitute a valid transfer of real property.~~

27           4. ~~Any restrictive covenant prohibited under subsection 1 of this~~  
 28 ~~section may be released by the owner of real property subject to such covenant~~  
 29 ~~by recording a certificate of release of prohibited covenants. The real property~~  
 30 ~~owner may record a certificate either prior to recording of a deed conveying~~  
 31 ~~real property to a purchaser or when such real property owner discovers that~~  
 32 ~~such prohibited covenant exists and chooses to affirmatively release the same.~~  
 33 ~~A certificate may be prepared without assistance of an attorney but shall~~  
 34 ~~conform substantially to the following certificate of release of prohibited~~  
 35 ~~covenants form:~~

36           Certificate of Release of Prohibited Covenants

37           Place of record: \_\_\_\_\_

38           Date of instrument containing prohibited covenant(s): \_\_\_\_\_

39           Instrument type: \_\_\_\_\_

40           Deed book \_\_\_\_\_ page \_\_\_\_\_ or plat book \_\_\_\_\_ page \_\_\_\_\_

41           Name(s) of grantor(s): \_\_\_\_\_

42           Name(s) of current owner(s): \_\_\_\_\_

43           Real property description: \_\_\_\_\_

44           ~~Specific description of prohibited covenant, including a citation~~  
 45 ~~to the location within the instrument: \_\_\_\_\_~~

46           The covenant contained in the above-mentioned instrument is  
 47 released from the above-described real property to the extent that  
 48 it contains terms purporting to restrict the ownership or use of the  
 49 property as prohibited by 442.403, RSMo.

50           The undersigned (is/are) the legal owner(s) of the property  
 51 described herein.

52           Given under my/our hand(s) this \_\_\_\_\_ day of \_\_\_\_\_,  
 53 20\_\_.

54           \_\_\_\_\_  
 55           \_\_\_\_\_

56 (Current owners)  
57 (County/city) of \_\_\_\_\_.  
58 ~~State of Missouri~~  
59 Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_  
60 \_\_, 20\_\_.  
61 \_\_\_\_\_  
62 Notary public  
63 My commission expires: \_\_\_\_\_

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