

1 H.551

2 Introduced by Representatives Grad of Moretown, Christie of Hartford,
3 Colburn of Burlington, Colston of Winooski, Kornheiser of
4 Brattleboro, LaLonde of South Burlington, and Rachelson of
5 Burlington

6 Referred to Committee on

7 Date:

8 Subject: Property; restrictive covenants

9 Statement of purpose of bill as introduced: This bill proposes to prohibit
10 covenants in deeds that purport to restrict the ownership of property on the
11 basis of race or religion and to establish a process for the removal of such
12 covenants from deeds.

13 An act relating to prohibiting racially and religiously restrictive covenants
14 in deeds

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 ~~Sec. 1. LEGISLATIVE INTENT~~

17 ~~While racially and religiously restrictive covenants have been held~~
18 ~~unenforceable by courts since the U.S. Supreme Court's 1948 decision in~~
19 ~~Shelley v. Kramer, 344 U.S. 1 (1948), no State law currently exists to remove~~
20 ~~or render these covenants void and to put an end to what was an invidious,~~

1 ~~historical practice of discrimination in the United States. This practice was~~
2 responsible, in part, for preventing Americans of BIPOC and religious
3 minority backgrounds from fully participating in one of the greatest
4 expansions of wealth and prosperity in this country's history through federally
5 backed mortgages and freely available homeownership. It is the intent of the
6 General Assembly that this Act prohibit racially and religiously restrictive
7 covenants from ever from being used in Vermont again, regardless of their
8 enforceability, and that it establish a process for their removal from existing
9 real estate transaction records.

10 Sec. 2. 27 V.S.A. § 546 is added to read:

11 § 546. RACIALLY AND RELIGIOUSLY RESTRICTIVE COVENANTS IN
12 DEEDS PROHIBITED; PROCESS FOR REMOVAL

13 (a)(1) A deed, mortgage, plat, or other recorded device recorded on or after
14 July 1, 2022 shall not contain a covenant, easement, or any other restrictive or
15 reversionary interest purporting to restrict the ownership or use of real
16 property on the basis of race or religion.

17 (2) A covenant, easement, or any other restrictive or reversionary
18 interest in a deed, mortgage, plat, or other recorded device purporting to
19 restrict the ownership or use of real property on the basis of race or religion is
20 declared contrary to the public policy of the State of Vermont and shall be void

1 ~~and unenforceable. This subdivision shall apply to a restrictive covenant~~
2 ~~executed at any time.~~

3 (b) A restrictive covenant, easement, or similar restrictive or reversionary
4 interest prohibited by subsection (a) of this section may be released by the
5 owner of the real property interest subject to the covenant by recording a
6 Certificate of Release of Certain Prohibited Covenants. The real property
7 owner may record the certificate prior to recording a deed conveying the
8 property or at any other time the owner discovers that the prohibited covenant
9 exists. The certificate may be prepared without assistance of an attorney but
10 shall conform substantially to the following Certificate of Certain Prohibited
11 Covenants form:

12 “CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED COVENANTS

13 Town of Record: _____

14 Date of Instrument containing prohibited covenant(s): _____

15 Instrument Type: _____

16 Deed Book _____ Page _____ or Plat Book _____ Page _____

17 Name(s) of Current Owner(s): _____

18 Real Property Description: _____

19 Brief Description of Prohibited Covenant: _____

20 The covenant contained in the above-mentioned instrument is released from

21 ~~the above-described real property to the extent that it contains terms purporting~~

1 ~~to restrict the ownership or use of the property as prohibited by 27 V.S.A.~~

2 § 5-16(a).

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

4 Given under my/our hand(s) this _____ day of _____, 20__.

5 _____

6 _____

7 (Current Owners)

8 State of Vermont,

9 County/City of _____:

10 Subscribed, sworn to, and acknowledged before me by _____ this _____ day

11 of _____, 20__.

12 My Commission Expires: _____

13 _____

14 NOTARY PUBLIC

15 Notary Registration Number: _____

16 The clerk has satisfied the requirements of 32 V.S.A. § 1671.”

17 (c) A property subject to a Certificate of Release shall reference the
18 Release in all subsequent deeds with a description that substantially conforms
19 to the following: “This property was once subject to a [racially/religiously]
20 restrictive [covenant/easement/other] that has been released by a Certificate of
21 Release at Book _____, Page _____ in the Town of _____ land records.

1 ~~This [covenant/assessments/other] was part of a widespread, historic practice of~~
2 ~~discrimination against [racial/religious] minorities.”~~

3 Sec. 3. 32 V.S.A. § 1671 is amended to read:

4 § 1671. TOWN CLERK

5 (a) For the purposes of this section, a “page” is defined as a single side of a
6 leaf of paper on which is printed, written, or otherwise placed information to
7 be recorded or filed. The maximum covered area on a page shall be 7 1/2
8 inches by 14 inches. All letters shall be at least one-sixteenth inch in height or
9 in at least eight-point type. Unless otherwise provided by law, the fees to the
10 town clerks shall be as follows:

11 (1) For recording a trust mortgage deed as provided in 24 V.S.A.
12 § 1155, \$15.00 per page;

13 * * *

14 (g) When a fee applies under this section, no fee shall be required for the
15 recordation of:

16 (1) a Certificate of Release of Certain Prohibited Covenants pursuant to
17 27 V.S.A. § 546(b); or

18 (2) a deed correction subject to 27 V.S.A. § 546(a).

19 Sec. 4. EFFECTIVE DATE

20 ~~This act shall take effect on July 1, 2022.~~

~~Sec. 1. LEGISLATIVE INTENT~~

While racially and religiously restrictive covenants have been held unenforceable by courts since the U.S. Supreme Court's 1948 decision in *Shelley v. Kramer*, 344 U.S. 1 (1948), no State law currently exists to remove or render these covenants void and to put an end to what was an invidious, historical practice of discrimination in the United States. This practice was responsible, in part, for preventing Americans of BIPOC and religious minority backgrounds from fully participating in one of the greatest expansions of wealth and prosperity in this country's history through federally backed mortgages and freely available homeownership. It is the intent of the General Assembly that this act prohibit racially and religiously restrictive covenants from ever being used in Vermont again, regardless of their enforceability, and that it establish a process for their removal from existing real estate transaction records.

Sec. 2. 27 V.S.A. § 546 is added to read:

§ 546. RACIALLY AND RELIGIOUSLY RESTRICTIVE COVENANTS IN

DEEDS PROHIBITED; PROCESS FOR REMOVAL

(a)(1) A deed, mortgage, plat, or other recorded device recorded on or after July 1, 2022 shall not contain a covenant, easement, or any other restrictive or reversionary interest purporting to restrict the ownership or use of real property on the basis of race or religion.

~~(2) A covenant, easement, or any other restrictive or reversionary interest in a deed, mortgage, plat, or other recorded device purporting to restrict the ownership or use of real property on the basis of race or religion is declared contrary to the public policy of the State of Vermont and shall be void and unenforceable. This subdivision shall apply to a restrictive covenant executed at any time.~~

~~(b) A restrictive covenant, easement, or similar restrictive or reversionary interest prohibited by subsection (a) of this section may be released by the owner of the real property interest subject to the covenant by recording a Certificate of Release of Certain Prohibited Covenants. The real property owner may record the certificate prior to recording a deed conveying the property or at any other time the owner discovers that the prohibited covenant exists. The certificate may be prepared without assistance of an attorney but shall conform substantially to the following Certificate of Certain Prohibited Covenants form:~~

~~“CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED COVENANTS~~

~~Town of Record: _____~~

~~Date of Instrument containing prohibited covenant(s): _____~~

~~Instrument Type: _____~~

~~Deed Book _____ Page _____ or Plat Book _____ Page _____~~

~~Name(s) of Current Owner(s): _____~~

Real Property Description: _____

The covenant contained in the above-mentioned instrument is released from the above-described real property to the extent that it contains terms purporting to restrict the ownership or use of the property as prohibited by 27 V.S.A. § 546(a).

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

Given under my/our hand(s) this _____ day of _____, 20__.

(Current Owners)

(1) For an acknowledgment in an individual capacity:

State of Vermont [County] of _____

This record was acknowledged before me on _____ by

Date _____ Name(s) of individual(s) _____

Signature of notary public _____

Stamp _____ [_____]

Title of office _____ [My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of Vermont [County] of _____

*This record was acknowledged before me on _____ by _____
Date _____ Name(s) of individual(s) _____ as _____
(type of authority, such as officer or trustee) of _____ (name of
party on behalf of whom record was executed).*

Signature of notary public _____

Stamp [_____]

Title of office _____ [My commission expires: _____]

The clerk has satisfied the requirements of 32 V.S.A. § 1671.”

Sec. 3. 32 V.S.A. § 1671 is amended to read:

§ 1671. TOWN CLERK

(a) For the purposes of this section, a “page” is defined as a single side of a leaf of paper on which is printed, written, or otherwise placed information to be recorded or filed. The maximum covered area on a page shall be 7 1/2 inches by 14 inches. All letters shall be at least one-sixteenth inch in height or in at least eight-point type. Unless otherwise provided by law, the fees to the town clerks shall be as follows:

(1) For recording a trust mortgage deed as provided in 24 V.S.A. § 1155, \$15.00 per page;

** * **

*(g) When a fee applies under this section, no fee shall be required for the
recording of _____*

~~(1) a Certificate of Release of Certain Prohibited Covenants pursuant to
27 V.S.A. § 546(b), or~~

~~(2) a deed correction subject to 27 V.S.A. § 546(a).~~

Sec. 4. EFFECTIVE DATE

~~This act shall take effect on July 1, 2022.~~

Sec. 1. LEGISLATIVE INTENT

While racially and religiously restrictive covenants have been held unenforceable by courts since the U.S. Supreme Court's 1948 decision in Shelley v. Kramer, 344 U.S. 1 (1948), no State law currently exists to render these covenants void and to put an end to what was an invidious, historical practice of discrimination in the United States. This practice was responsible, in part, for preventing persons of racial and religious minority backgrounds from fully participating in one of the greatest expansions of wealth and prosperity in this country's history through federally backed mortgages and freely available homeownership. It is the intent of the General Assembly that this act prohibit racially and religiously restrictive covenants from ever being used in Vermont again, regardless of their enforceability, and that it ensure that existing racially and religiously restrictive covenants remain in municipal land records to preserve the historical record and maintain critical evidence of a pervasive system of discrimination that existed in Vermont and throughout the country.

Sec. 2. 27 V.S.A. § 546 is added to read:

§ 546. RACIALLY AND RELIGIOUSLY RESTRICTIVE COVENANTS IN
DEEDS PROHIBITED

(a) A deed, mortgage, plat, or other recorded device recorded on or after July 1, 2022 shall not contain a covenant, easement, or any other restrictive or reversionary interest purporting to restrict the ownership or use of real property on the basis of race or religion.

(b) A covenant, easement, or any other restrictive or reversionary interest in a deed, mortgage, plat, or other recorded device purporting to restrict the ownership or use of real property on the basis of race or religion is declared contrary to the public policy of the State of Vermont and shall be void and unenforceable. This subdivision shall apply to a restrictive covenant executed at any time.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2022.