

H.551

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

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

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 recordation 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.