

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 551
3 entitled “An act relating to prohibiting racially and religiously restrictive
4 covenants in deeds” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 ` clause and inserting in lieu thereof the following:

7 Sec. 1. LEGISLATIVE INTENT

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

1 evidence of a pervasive system of discrimination that existed in Vermont and
2 throughout the country.

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

4 § 546. RACIALLY AND RELIGIOUSLY RESTRICTIVE COVENANTS IN
5 DEEDS PROHIBITED; ~~PROCESS FOR REMOVAL~~

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

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

16 (b) This section shall not be construed to remove or alter racially or
17 religiously restrictive covenants that exist in municipal land records as of the
18 effective date of this act.

19 (b) A restrictive covenant, easement, or similar restrictive or reversionary
20 interest prohibited by subsection (a) of this section may be released by the
21 owner of the real property interest subject to the covenant by recording a

1 Certificate of Release of Certain Prohibited Covenants. The real property
2 owner may record the certificate prior to recording a deed conveying the
3 property or at any other time the owner discovers that the prohibited covenant
4 exists. The certificate may be prepared without assistance of an attorney but
5 shall conform substantially to the following Certificate of Certain Prohibited
6 Covenants form:
7 “CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED COVENANTS
8 Town of Record: _____
9 Date of Instrument containing prohibited covenant(s): _____
10 Instrument Type: _____
11 Deed Book _____ Page _____ or Plat Book _____ Page _____
12 Name(s) of Current Owner(s): _____
13 Real Property Description: _____
14 The covenant contained in the above-mentioned instrument is released from
15 the above-described real property to the extent that it contains terms purporting
16 to restrict the ownership or use of the property as prohibited by 27 V.S.A.
17 § 546(a).
18 The undersigned is/are the legal owner(s) of the property described herein.
19 Given under my/our hand(s) this _____ day of _____, 20 _____.
20 _____
21 _____

1 (Current Owners)

2 (1) For an acknowledgment in an individual capacity:

3 State of Vermont [County] of _____

4 This record was acknowledged before me on _____ by

5 _____

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

7 Signature of notary public _____

8 Stamp _____ [_____]

9 Title of office _____ [My commission expires: _____]

10 (2) For an acknowledgment in a representative capacity:

11 State of Vermont [County] of _____

12 This record was acknowledged before me on _____ by _____

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

14 (type of authority, such as officer or trustee) of _____ (name of

15 party on behalf of whom record was executed).

16 Signature of notary public _____

17 Stamp [_____]

18 Title of office _____ [My commission expires: _____]

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

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

21 § 1671. TOWN CLERK

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

7 (1) For recording a trust mortgage deed as provided in 24 V.S.A.
8 § 1155, \$15.00 per page;

9 * * *

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

12 (1) a Certificate of Release of Certain Prohibited Covenants pursuant to
13 27 V.S.A. § 546(b); or

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

15 Sec. 4. EFFECTIVE DATE

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

17

18 (Committee vote: _____)

19

20

21

Representative _____

FOR THE COMMITTEE