

**SUBSTITUTE FOR  
HOUSE BILL NO. 4416**

A bill to prohibit the recording of deeds or other instruments relating to real property that contain certain restrictive covenants or conditions; to make such restrictions unenforceable; and to provide remedies with respect to those instruments.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act may be cited as the "discharge of prohibited  
2 restrictive covenants act".

3           Sec. 2. As used in this act:

4           (a) "Discharge form" means the discharge of a prohibited  
5 restriction form described in section 5.

6           (b) "Person" means an individual or a partnership,  
7 corporation, limited liability company, association, governmental  
8 entity, or other legal entity.



1 (c) "Prohibited restriction" means a restriction, covenant, or  
2 condition, including a right of entry or possibility of reverter,  
3 that purports to restrict occupancy or ownership of property on the  
4 basis of race, color, religion, sex, familial status, national  
5 origin, or other class protected by the fair housing act, title  
6 VIII of the civil rights act of 1968, Public Law 90-284, in a deed  
7 or other instrument.

8 Sec. 3. (1) A person shall not record in the records of the  
9 register of deeds a deed or other instrument that contains a  
10 prohibited restriction.

11 (2) This act does not impose a duty on a register of deeds or  
12 employee of a register of deeds to inspect a deed or other  
13 instrument to determine whether recording the deed or instrument  
14 would violate subsection (1).

15 Sec. 4. (1) A prohibited restriction is void and has no legal  
16 effect.

17 (2) A court or other person shall not enforce a prohibited  
18 restriction.

19 Sec. 5. A discharge of prohibited restriction form may be  
20 recorded with the register of deeds for the county where the  
21 property is located. A discharge form recorded under this section  
22 must substantially conform to the following form:

23 "DISCHARGE OF PROHIBITED RESTRICTION

24 The document recorded at Liber \_\_\_\_ Page \_\_\_\_ or Instrument  
25 number \_\_\_\_ contains language that violates the discharge of  
26 prohibited restrictive covenants act.



1 This document removes and abolishes from the original document  
2 restrictions, covenants, or conditions, including a right of entry  
3 or possibility of reverter, that purports to restrict occupancy or  
4 ownership of property on the basis of race, color, religion, sex,  
5 familial status, national origin, or other class protected by the  
6 fair housing act, title VIII of the civil rights act of 1968,  
7 Public Law 90-284, and the discharge of prohibited restrictive  
8 covenants act.

9 [ ] If this box is checked, a transcription or copy of the  
10 original document with language redacted or removed must be  
11 attached to this form.

12 \_\_\_\_\_

13 (Signature)

14 \_\_\_\_\_

15 (Typed or printed name)

16 STATE OF MICHIGAN )

17 \_\_\_\_\_ COUNTY )

18 Acknowledged before me in \_\_\_\_\_ County, Michigan, (or)  
19 before me using an electronic notarization system under MCL 55.286a  
20 in \_\_\_\_\_ County, Michigan, (or) before me using a remote  
21 electronic notarization platform under MCL 55.286b on (date), by  
22 (name of person acknowledged).

23 \_\_\_\_\_

24 (Notary's signature)

25 \_\_\_\_\_

26 (Notary public's name, typed, as it appears on application for  
27 commission)

28 Notary public, State of Michigan, County of \_\_\_\_\_.

29 My commission expires \_\_\_\_\_.



1 (Or, if acting in county other than county of commission)  
2 Acting in the County of \_\_\_\_\_.

3 Prepared by: \_\_\_\_\_ (Name and address of preparer).".

4 Sec. 6. (1) A homeowners' or property owners' association,  
5 acting through a simple majority vote of its board, may record a  
6 discharge form to remove any prohibited restriction in a deed or  
7 other instrument that affects a property governed by the  
8 homeowners' or property owners' association.

9 (2) If the board of a homeowners' or property owners'  
10 association receives a written request by a member of the  
11 association that the board exercise its authority under subsection  
12 (1), the board shall determine within a reasonable time whether a  
13 prohibited restriction is present in a deed or other instrument. If  
14 the board determines that a prohibited restriction is present in a  
15 deed or other instrument, the board shall record a discharge form,  
16 as provided under this subsection and subsections (1), (3), (4),  
17 and (9).

18 (3) Board action under subsection (1) or (2) does not require  
19 the vote or approval of the property owners.

20 (4) A discharge form prepared under subsection (1) or (2) may  
21 be executed by any officer authorized by the board.

22 (5) The board of directors of an association of co-owners of a  
23 condominium, acting through a simple majority vote of the board,  
24 may record a discharge form to remove any prohibited restriction in  
25 a deed or other instrument that affects a property governed by the  
26 board.

27 (6) If the board of directors of an association of co-owners  
28 of a condominium receives a written request by a co-owner that the  
29 board exercise its authority under subsection (5), the board shall



1 determine within a reasonable time whether a prohibited restriction  
2 is present in a deed or other instrument. If the board determines  
3 that a prohibited restriction is present in a deed or other  
4 instrument, the board shall record a discharge form, as provided  
5 under this subsection and subsections (5), (7), (8), and (9).

6 (7) Board action under subsection (5) or (6) does not require  
7 the vote or approval of the property owners.

8 (8) A discharge form prepared under subsection (5) or (6) may  
9 be executed by any officer authorized by the board.

10 (9) A discharge form prepared under this section must be  
11 recorded with the register of deeds for the county where the  
12 property is located.

13 Sec. 7. (1) A property owner may record in the records of the  
14 register of deeds for the county where the property is located a  
15 discharge form to remove any prohibited restriction.

16 (2) A discharge form recorded under this section may be  
17 executed solely by the property owner.

18 Sec. 8. (1) If a recorded deed or other recorded instrument  
19 contains a provision that is prohibited under this act, the owner,  
20 occupant, or tenant of the property that is subject to the  
21 provision or any member of the board of a homeowners' or property  
22 owners' association or of the board of directors of an association  
23 of co-owners of a condominium that would have a right to enforce  
24 the provision may bring an action in the circuit court in the  
25 county in which the property is located to have a discharge form  
26 recorded with the register of deeds.

27 (2) An action under this section must be brought as an in rem,  
28 declaratory judgment action and the title of the action must be the  
29 description of the property. The owners, occupants, and tenants of



1 the property or any part of the property are necessary parties to  
2 the action.

3 (3) In an action under this section, if the court finds that  
4 any provisions of the deed or instrument are prohibited under this  
5 act, it shall enter an order striking the provisions from the  
6 records of the register of deeds and eliminating the provisions  
7 from the deed or other instrument for the property described in the  
8 complaint.

9 Sec. 9. As provided in section 2567 of the revised judicature  
10 act of 1961, 1961 PA 236, MCL 600.2567, a register of deeds is  
11 entitled to the fees under that section for recording a discharge  
12 form prepared and recorded under this act.

13 Sec. 10. (1) A person that refuses, before recording, to  
14 remove from a deed or other instrument a prohibited restriction is  
15 liable for all actual court costs and reasonable attorney fees  
16 incurred in an action before a court of competent jurisdiction to  
17 enforce the provisions of this act.

18 (2) Subsection (1) does not apply to a register of deeds or an  
19 employee of a register of deeds.

20 Sec. 11. (1) Except as otherwise provided in section 6(2) and  
21 (6), this act does not create a duty on the part of an owner,  
22 occupant, tenant, association, board, or member or officer of a  
23 board to do any of the following as authorized under this act:

- 24 (a) Record a discharge form.  
25 (b) Bring an action under this act.

26 (2) An owner, occupant, tenant, association, board, or member  
27 or officer of a board is not liable for failing to do any of the  
28 following as authorized under this act:

- 29 (a) Record a discharge form.



1 (b) Bring an action in court under this act.

2 (3) This act does not limit any right or remedy under the  
3 Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to  
4 37.2804, or any other law of this state.

