



## **THE UNIFORM UNLAWFUL RESTRICTIONS IN LAND RECORDS ACT**

### *- A Summary -*

The Uniform Unlawful Restrictions in Land Records Act (the “Act”) creates a path forward for states to begin addressing our country’s regrettable history of lawful discrimination in housing, by allowing property owners to record an amendment that removes unlawful restrictions contained within their property records.

At the beginning of the late 1800s and throughout the mid-1900s, homeowners and property developers throughout the country recorded covenants that restricted ownership, leasing, and occupancy of properties on the basis of race, religion, color, national origin, and other now-protected personal categories. These restrictions furthered harmful stereotypes, encouraged discrimination, and significantly limited housing opportunities and economic mobility for people of color and other minority groups throughout the United States.

In 1948, the United States Supreme Court ruled that courts could not specifically enforce racially restrictive covenants limiting who could own, rent, or occupy a property. However, developers and other property owners were still free to write and publish racially restrictive covenants and record them in the land records for the next two decades, and this practice only stopped once the Fair Housing Act was passed in 1968. The Fair Housing Act prohibits discrimination in housing, including through the use of restrictive covenants, on the basis of an individual’s race or color, religion, national origin, sex, disability, and/or familial status (as amended by the Americans with Disabilities Act in 1990).

While these discriminatory covenants, or unlawful restrictions, are no longer enforceable, and new ones may not be lawfully published or recorded, the old existing covenants still linger and litter land records in every state. For many homeowners who encounter these covenants, they remain a painful reminder of their community’s history of racism and discrimination. The desire to renounce this history and remove discriminatory covenants from their chain of title is entirely understandable. Yet, to maintain the integrity of the title and preserve the record for historical research purposes, the unlawful restriction itself should not be physically removed from the land records or redacted. Instead, the Act gives property owners the ability to record an amendment in their property records that functionally removes the unenforceable restriction. A sample of the amendment is contained within the Act.

The Act also permits owners of units in condominiums, co-ops, or planned communities to request that their association’s governing body remove an unlawful restriction from their governing documents. Once a unit owner has requested the removal, the governing body is empowered to seamlessly remove the unlawful restriction by amendment, without having to provide advanced notice or conduct a vote by the unit owners. Similarly, even when a member of the association has not requested the removal of an unlawful restriction, the board will be able to remove the restriction on its own volition without a vote from the association.

Finally, the act has been drafted to allow the removal of unlawful restrictions that involve the protected categories that the state wants to add or has already recognized, and does not limit a state's ability to create age-restricted or other special communities.

For further information about the Uniform Unlawful Restrictions in Land Records Act, please contact Jane Sternecky, ULC Legislative Counsel, at (312) 450-6622 or [jsternecky@uniformlaws.org](mailto:jsternecky@uniformlaws.org).