

# HOUSE BILL NO. 4676

May 24, 2019, Introduced by Reps. Anthony, Brixie, Ellison, Garrett, Love, Kennedy, Manoogian, Tyrone Carter, Shannon, Cynthia Johnson, Sabo, Bolden, Wozniak, Hope, Hoadley, Cherry, Sowerby, Pohutsky, Wittenberg, Yancey, Stone and Jones and referred to the Committee on Judiciary.

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 shall be known and may be cited as the  
2 "prohibited restrictive covenants act".

3           Sec. 2. As used in this act:



1 (a) "Familial status" means that term as defined in section  
2 103 of the Elliott-Larsen civil rights act, 1976 PA 453, MCL  
3 37.2103.

4 (b) "Person" means an individual, partnership, corporation,  
5 association, governmental entity, or other legal entity.

6 Sec. 3. (1) A person shall not record in the records of the  
7 register of deeds a deed or other instrument that contains a  
8 restriction, covenant, or condition, including a right of entry or  
9 possibility of reverter, that directly or indirectly prohibits or  
10 limits the conveyance, encumbrance, rental, occupancy, or use of  
11 real property on the basis of race, sex, national origin, familial  
12 status, sexual orientation, or gender identity, or on the basis of  
13 an individual having a sensory, mental, or physical disability or  
14 using a trained dog guide or service animal because the individual  
15 is blind or deaf or has a physical disability.

16 (2) A register of deeds shall not record a deed or other  
17 instrument described in subsection (1).

18 Sec. 4. (1) A restriction, covenant, or condition, including a  
19 right of entry or possibility of reverter, that directly or  
20 indirectly prohibits or limits the conveyance, encumbrance, rental,  
21 occupancy, or use of real property on the basis of race, sex,  
22 national origin, familial status, sexual orientation, or gender  
23 identity, or on the basis of an individual having a sensory,  
24 mental, or physical disability or using a trained dog guide or  
25 service animal because the individual is blind or deaf or has a  
26 physical disability, is void and has no legal effect.

27 (2) A court or other person shall not enforce a restriction,  
28 covenant, or condition described in subsection (1).

29 Sec. 5. (1) A homeowners' or property owners' association,



1 acting through a simple majority vote of its board, may amend the  
2 association's governing documents for the purpose of removing any  
3 restriction, covenant, or condition, including a right of entry or  
4 possibility of reverter, that directly or indirectly prohibits or  
5 limits the conveyance, encumbrance, rental, occupancy, or use of  
6 real property on the basis of race, sex, national origin, familial  
7 status, sexual orientation, or gender identity, or on the basis of  
8 an individual having a sensory, mental, or physical disability or  
9 using a trained dog guide or service animal because the individual  
10 is blind or deaf or has a physical disability.

11 (2) If the board of a homeowners' or property owners'  
12 association receives a written request by a member of the  
13 association that the board exercise its amending authority under  
14 subsection (1), the board shall, within a reasonable time, amend  
15 the governing documents, as provided under this section.

16 (3) Board action under this section does not require the vote  
17 or approval of the property owners.

18 (4) An amendment under subsection (1) may be executed by any  
19 board officer.

20 (5) An amendment under subsection (1) must be recorded with  
21 the register of deeds for the county where the property is located  
22 and state the following:

23 "This amendment strikes from these restrictions, covenants,  
24 and conditions the provisions that are prohibited under the  
25 prohibited restrictive covenants act. Specifically, this amendment  
26 strikes the provisions that directly or indirectly prohibit or  
27 limit the conveyance, encumbrance, rental, occupancy, or use of the  
28 property on the basis of race, sex, national origin, familial  
29 status, sexual orientation, or gender identity, or on the basis of



1 an individual having a sensory, mental, or physical disability or  
2 using a trained dog guide or service animal because the individual  
3 is blind or deaf or has a physical disability."

4       Sec. 6. (1) A property owner may record in the records of the  
5 register of deeds for the county where the property is located an  
6 amended deed or other instrument to remove any restriction,  
7 covenant, or condition, including a right of entry or possibility  
8 of reverter, that directly or indirectly prohibits or limits the  
9 conveyance, encumbrance, rental, occupancy, or use of real property  
10 on the basis of race, sex, national origin, familial status, sexual  
11 orientation, or gender identity, or on the basis of an individual  
12 having a sensory, mental, or physical disability or using a trained  
13 dog guide or service animal because the individual is blind or deaf  
14 or has a physical disability.

15       (2) An amended deed or other instrument under this section may  
16 be executed solely by the property owner. The deed or instrument  
17 must be executed and acknowledged in the manner required by law.

18       (3) An amended deed or other instrument under this section  
19 must state the following:

20       "This amended instrument strikes from an original instrument  
21 restrictions, covenants, or conditions that are prohibited under  
22 the prohibited restrictive covenants act. Specifically, this  
23 amended instrument strikes the provisions that directly or  
24 indirectly prohibit or limit the conveyance, encumbrance, rental,  
25 occupancy, or use of the property on the basis of race, sex,  
26 national origin, familial status, sexual orientation, or gender  
27 identity, or on the basis of an individual having a sensory,  
28 mental, or physical disability or using a trained dog guide or  
29 service animal because the individual is blind or deaf or has a



1 physical disability."

2       Sec. 7. (1) If a deed or other instrument contains a provision  
3 that is prohibited under this act, the owner, occupant, or tenant  
4 of the property that is subject to the provision or any member of  
5 the board of a homeowners' or property owners' association that  
6 would have a right to enforce such a provision may bring an action  
7 in the circuit court in the county in which the property is located  
8 to have the provision stricken from the records of the register of  
9 deeds.

10       (2) An action under this section must be brought as an in rem,  
11 declaratory judgment action and the title of the action must be the  
12 description of the property. The owners, occupants, or tenants of  
13 the property or any part of the property are necessary parties to  
14 the action.

15       (3) In an action under this section, if the court finds that  
16 any provisions of the deed or instrument are prohibited under this  
17 act, it shall enter an order striking the provisions from the  
18 records of the register of deeds and eliminating the provisions  
19 from the deed or other instrument for the property described in the  
20 complaint.

21       Sec. 8. A person that refuses, before recording, to remove  
22 from a deed or other instrument a restriction, covenant, or  
23 condition, including a right of entry or possibility of reverter,  
24 that directly or indirectly prohibits or limits the conveyance,  
25 encumbrance, rental, occupancy, or use of real property on the  
26 basis of race, sex, national origin, familial status, sexual  
27 orientation, or gender identity, or on the basis of an individual  
28 having a sensory, mental, or physical disability or using a trained  
29 dog guide or service animal because the individual is blind or deaf



1 or has a physical disability is liable for any damage sustained by  
2 another person because of the refusal.

3       Sec. 9. (1) Except as otherwise provided in section 5(2), this  
4 act does not create a duty on the part of an owner, occupant,  
5 tenant, association, board, or member or officer of a board to  
6 amend a recorded deed or instrument or a governing document as  
7 provided in this act, or to bring an action as authorized under  
8 this act.

9       (2) An owner, occupant, tenant, association, board, or member  
10 or officer of a board is not liable for failing to amend a recorded  
11 deed or instrument or a governing document or to pursue an action  
12 in court as authorized under this act.

13       (3) This act does not limit any right or remedy under the  
14 Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to  
15 37.2804, or any other law of this state.

