

As Introduced

134th General Assembly

Regular Session

2021-2022

S. B. No. 310

Senator Craig

Cosponsors: Senators Antonio, Yuko, Maharath, Thomas, Fedor, Sykes

A BILL

To amend section 109.15 and to enact section 1
317.115 of the Revised Code to address 2
discriminatory covenants in recorded real 3
property documents. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 109.15 be amended and section 5
317.115 of the Revised Code be enacted to read as follows: 6

Sec. 109.15. The attorney general shall prepare suitable 7
forms of contracts, obligations, and other like instruments of 8
writing for the use of state officers, when requested by the 9
governor, secretary of state, auditor of state, or treasurer of 10
state. 11

The attorney general, in conjunction with the Ohio 12
recorders' association, shall prepare and provide to county 13
recorders a redaction form and a modification form for use under 14
section 317.115 of the Revised Code. 15

Sec. 317.115. (A) As used in this section: 16

(1) "Real property instrument" means a deed, mortgage, 17

installment contract, lease, memorandum of trust, or any other 18
instrument pertaining to real property that is recorded by the 19
county recorder under section 317.08 of the Revised Code. 20

(2) "Discriminatory covenant" means any provision in a 21
real property instrument that forbids or restricts the 22
conveyance, encumbrance, leasing, or mortgaging of the property 23
to any individual against whom discrimination is prohibited by 24
division (H) (1) of section 4112.02 of the Revised Code. 25

(B) The county recorder shall make available to the public 26
redaction forms and modification forms. Any of the following 27
persons who believe that a real property instrument contains a 28
discriminatory covenant may request, on a form developed by the 29
attorney general pursuant to section 109.15 of the Revised Code, 30
that the county recorder redact the discriminatory covenant from 31
view by the general public on the internet, or record a 32
modification document in which the person has stricken the 33
discriminatory covenant in the instrument, by completing and 34
filing a redaction form or a modification form with the county 35
recorder at the specified time: 36

(1) An attorney, or a title insurance company or title 37
agent authorized to do business in this state, at the time of a 38
transfer or sale of interest in real property that is the 39
subject of the real property instrument; 40

(2) An owner of record in the real property instrument, at 41
any time. 42

(C) The county recorder shall accept and review a 43
redaction form and the real property instrument that is the 44
subject of the form, and may redact the discriminatory covenant 45
from view by the general public on the internet. 46

(D) The county recorder shall accept a modification form 47
with a complete copy of the current real property instrument 48
that is the subject of the form attached to the form with the 49
discriminatory covenant stricken, or with a complete list of all 50
nondiscriminatory covenants that are in the instrument. The 51
modification form and the attachments shall be recorded and 52
indexed in the same manner and shall have the same effect as the 53
original real property instrument being modified. The 54
modification form and attachments shall have noted on them a 55
recording reference to the original real property instrument in 56
the form of a book and page or instrument number, and the date 57
of their recording. A modification form and attachments must be 58
presented to the county recorder in the same manner as 59
prescribed by law for any real property filing that is not 60
required to first be presented to the county auditor. 61

(E) Notwithstanding any law to the contrary, any person 62
who, in good faith and in the usual course of business, delivers 63
to the county recorder a real property instrument that contains 64
a discriminatory covenant that is void and unenforceable by law 65
shall be immune from civil liability. In addition, such delivery 66
does not constitute a discriminatory housing practice. This 67
division shall not apply to any person who does either of the 68
following: 69

(1) Represents or attempts to represent that the 70
discriminatory covenant is valid and enforceable; 71

(2) Honors or exercises or attempts to honor or exercise 72
the discriminatory covenant. 73

(F) If, under this section, the attorney, title insurance 74
company or agent, or owner of record causes to be recorded a 75
modification form and attachments that contain modifications not 76

authorized by this section, the county recorder shall not incur 77
liability for recording the modification form and attachments. 78
The liability that may result from the recordation is the sole 79
responsibility of the person who caused the modified 80
recordation. 81

(G) A county recorder with whom a redaction form or 82
modification form is filed under this section may refuse a 83
redaction or modification request if the language in the real 84
property instrument does not meet the definition of a 85
discriminatory covenant under division (A) of this section. Such 86
refusal shall be made to the filer in writing. 87

Section 2. That existing section 109.15 of the Revised 88
Code is hereby repealed. 89