

**As Introduced**

**134th General Assembly**

**Regular Session**

**2021-2022**

**S. B. No. 310**

**Senator Craig**

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

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**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