

JAN 21 2022

A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 501-196, Hawaii Revised Statutes, is amended to read as follows:

"§501-196 Alterations upon registration book prohibited when; court hearings; limitations[-]; removal of unlawful covenants. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon, and the approval of the same by the registrar or an assistant registrar except by order of the court recorded with the assistant registrar[-]; provided that the registrar or assistant registrar may correct any clerical error made by personnel of the registrar's or assistant registrar's office. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate have terminated and ceased; or that new interests have arisen or been created [~~which~~] that do not appear upon the certificate; or that any



1 error, omission, or mistake was made in entering a certificate
2 or any memorandum thereon; or that the name of any person on the
3 certificate has been changed; or that the registered owner has
4 been married, or if registered as married that the marriage has
5 been terminated; or that a corporation [~~whieh~~] that owned
6 registered land and has been dissolved has not conveyed the same
7 within three years after its dissolution, or upon any other
8 reasonable ground. The court shall have jurisdiction to hear
9 and determine the petition after notice to all parties in
10 interest and may order the entry of a new certificate, the entry
11 or cancellation of a memorandum upon a certificate, or grant any
12 other relief upon such terms and conditions, requiring security
13 if necessary, as it may deem proper. This section shall not be
14 construed to give the court authority to open the original
15 decree of registration, and nothing shall be done or ordered by
16 the court [~~whieh~~] that impairs the title or other interest of a
17 purchaser holding a certificate for value and in good faith, or
18 the purchaser's heirs or assigns, without the purchaser's or
19 their written consent.

20 Any petition filed under this section and all petitions and
21 motions filed under this chapter after original registration



1 shall be filed and entitled in the original case in which the
2 decree of registration was entered.

3 Notwithstanding the foregoing, the registrar or an
4 assistant registrar shall accept for recordation and give effect
5 to a duly completed and approved unlawful covenant removal form
6 as provided by section 515-6, without hearing or court order."

7 SECTION 2. Chapter 502, Hawaii Revised Statutes, is
8 amended by adding a new section to part XI, to be appropriately
9 designated and to read as follows:

10 "§502- Removal of unlawful covenants. The bureau of
11 conveyances shall accept for recordation and give effect to a
12 duly completed and approved unlawful covenant removal form as
13 provided by section 515-6, without hearing or court order."

14 SECTION 3. Section 515-6, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§515-6 Restrictive covenants and conditions[-]; removal
17 of unlawful covenants. (a) Every provision in an oral
18 agreement or a written instrument relating to real property that
19 purports to forbid or restrict the conveyance, encumbrance,
20 occupancy, or lease thereof to individuals because of race, sex,
21 including gender identity or expression, sexual orientation,



1 color, religion, marital status, familial status, ancestry,
2 disability, age, or human immunodeficiency virus infection, is
3 void.

4 (b) Every condition, restriction, or prohibition,
5 including a right of entry or possibility of reverter, that
6 directly or indirectly limits the use or occupancy of real
7 property on the basis of race, sex, including gender identity or
8 expression, sexual orientation, color, religion, marital status,
9 familial status, ancestry, disability, age, or human
10 immunodeficiency virus infection is void, except a limitation,
11 on the basis of religion, on the use of real property held by a
12 religious institution or organization or by a religious or
13 charitable organization operated, supervised, or controlled by a
14 religious institution or organization, and used for religious or
15 charitable purposes.

16 (c) It is a discriminatory practice to insert in a written
17 instrument relating to real property a provision that is void
18 under this section or to honor or attempt to honor such a
19 provision in the chain of title.

20 (d) The bureau of conveyances and office of the assistant
21 registrar of the land court of the State shall each promulgate



1 and make publicly available an unlawful covenant removal form.

2 The purpose of this form shall be to remove from conveyance

3 instruments any covenants and conditions that are prohibited by

4 this section. There shall be no filing fee for the recordation

5 of this form. At minimum, the form shall:

6 (1) State that restrictions based on race, sex, including

7 gender identity or expression, sexual orientation,

8 color, religion, marital status, familial status,

9 ancestry, disability, age, or human immunodeficiency

10 virus infection are void;

11 (2) Provide a space for the identification of the subject

12 conveyance instrument;

13 (3) Provide a space for the identification of the location

14 of the unlawful covenant or covenants within the

15 conveyance instrument; and

16 (4) Provide a space for the office of the attorney general

17 to indicate whether the identified covenant violates

18 this section and whether the attorney general's office

19 approves the requested removal as provided by

20 subsection (g).



1 (e) If a person who holds or is acquiring an ownership
2 interest of record in real property that the person believes is
3 subject to a covenant or condition in violation of this section,
4 then that person may record a completed original of the unlawful
5 covenant removal form prescribed by subsection (d). A title
6 company, escrow company, real estate broker, real estate agent,
7 or other person may also record the unlawful covenant removal
8 form.

9 (f) Beginning January 1, 2023, if a title company, escrow
10 company, or association has actual knowledge that a conveyance
11 instrument that it delivers directly to a person who holds an
12 ownership interest of record in property that is subject to a
13 covenant or condition in violation of this section, then the
14 title company, escrow company, or association shall also provide
15 to that person a copy of the unlawful covenant removal form
16 prescribed by subsection (d), together with procedural
17 information for appropriate processing along with the document.

18 (g) Notwithstanding any law to the contrary, an unlawful
19 covenant removal form that is reviewed and approved by the
20 office of the attorney general and recorded pursuant to this
21 section shall remove the unlawful covenant from all property



1 affected by the original covenant, regardless of who submits the
2 modification. The attorney general or the attorney general's
3 designee shall approve or disapprove the unlawful covenant
4 removal form within a reasonable period time from submission,
5 not to exceed three months."

6 SECTION 4. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 5. This Act shall take effect upon its approval.
9

INTRODUCED BY: 



S.B. NO. 2217

Report Title:

Real Property; Prohibited Discrimination; Bureau of Conveyances;
Office of the Assistant Registrar of the Land Court of the State
of Hawaii; Land Title; Recordation; Attorney General

Description:

Establishes procedure to remove certain unlawful covenants and
conditions from recorded conveyance instruments.

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

