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# A BILL FOR AN ACT

RELATING TO PROPERTY.

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

1           SECTION 1. Section 515-6, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§515-6 Restrictive covenants and conditions.** (a) Every  
4 provision in an oral agreement or a written instrument relating  
5 to real property that purports to forbid or restrict the  
6 conveyance, encumbrance, occupancy, or lease thereof to  
7 individuals because 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.  
11           (b) Every condition, restriction, or prohibition,  
12 including a right of entry or possibility of reverter, that  
13 directly or indirectly limits the use or occupancy of real  
14 property on the basis of race, sex, including gender identity or  
15 expression, sexual orientation, color, religion, marital status,  
16 familial status, ancestry, disability, age, or human  
17 immunodeficiency virus infection is void, except a limitation,



1 on the basis of religion, on the use of real property held by a  
2 religious institution or organization or by a religious or  
3 charitable organization operated, supervised, or controlled by a  
4 religious institution or organization, and used for religious or  
5 charitable purposes.

6 (c) It is a discriminatory practice to insert in a written  
7 instrument relating to real property a provision that is void  
8 under this section or to honor or attempt to honor ~~[such a]~~ the  
9 provision in the chain of title.

10 (d) Any person who discovers a recorded discriminatory  
11 restrictive covenant may:

12 (1) With the consent of all parties to a real estate  
13 transaction, include in any deed, mortgage, or other  
14 instrument filed for recording in connection with the  
15 transaction a statement that the discriminatory  
16 restrictive covenant is void and unenforceable; or

17 (2) Prepare and record a separate notice, cross-referenced  
18 to the discriminatory restrictive covenant, stating  
19 that the discriminatory restrictive covenant is void  
20 and unenforceable.



1       (e) The statement or notice described under subsection (d)  
2 shall be in a form substantially similar with the following:

3       "The chain of title for the real property described  
4 herein contains a restrictive covenant that, if  
5 enforced, would discriminate against individuals based  
6 upon their race, color, sex, religion, familial  
7 status, disability, or national origin. The covenant  
8 is void, unenforceable, and antithetical to American  
9 values of justice and equal protection under the law."

10       (f) A person who in good faith:

11       (1) Prepares or causes to be prepared; or

12       (2) Records or causes to be recorded,

13 a statement or notice under subsection (d) shall be immune from  
14 liability for incorrectly stating that the restrictive covenant  
15 is discriminatory.

16       (g) For purposes of this section, "discriminatory  
17 restrictive covenant" means any restrictive covenant on real  
18 property that, if enforced, would violate the:

19       (1) Prohibition in the federal Fair Housing Act (42 U.S.C.

20       3601 et seq.) against discrimination on the basis of



1           race, color, sex, religion, familial status,  
2           disability, or national origin;  
3       (2) Equal protection clause of the United States  
4           Constitution, under Shelley v. Kraemer, 334 U.S. 1  
5           (1948) (holding that the enforcement of a racially  
6           restrictive covenant violated the equal protection  
7           clause); or  
8       (3) Prohibition against discrimination on the basis of  
9           race, sex, including gender identity or expression,  
10          sexual orientation, color, religion, marital status,  
11          familial status, ancestry, disability, age, or human  
12          immunodeficiency virus infection."

13           SECTION 2. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15           SECTION 3. This Act shall take effect on July 1, 3000.



**Report Title:**

Property; Discriminatory Restrictive Covenants; Invalidation of Covenants; Immunity

**Description:**

Allows a person who discovers a recorded discriminatory restrictive covenant to take certain actions, without liability, to invalidate the covenant. Defines discriminatory restrictive covenant. Effective 7/1/3000. (HD1)

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

