LEGISLATURE OF NEBRASKA

ONE HUNDRED NINTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 21

Introduced by Cavanaugh, J., 9.

Read first time January 09, 2025

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to real property; to adopt the Uniform
- 2 Unlawful Restrictions in Land Records Act.
- 3 Be it enacted by the people of the State of Nebraska,

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1 Section 1. Sections 1 to 9 of this act shall be known and may be

- 2 cited as the Uniform Unlawful Restrictions in Land Records Act.
- 3 Sec. 2. In the Uniform Unlawful Restrictions in Land Records Act:
- 4 (1) Amendment means a document that removes an unlawful restriction.
- 5 (2) Document means a record recorded or eligible to be recorded in
- 6 land records.
- 7 (3) Governing instrument means a document recorded in land records
- 8 <u>that:</u>
- 9 (A) establishes a governing body responsible for management of
- 10 <u>common areas or facilities used by more than one owner of a property</u>
- 11 <u>interest affected by the document; and</u>
- 12 <u>(B) requires contribution, enforceable by a lien on a separate</u>
- 13 property interest, of a share of taxes, insurance premiums, maintenance,
- 14 or improvement of, or services or other expenses for the common benefit
- of, the real property described in the document.
- 16 (4) Index means a system that enables a search for a document in
- 17 land records.
- 18 <u>(5) Land records means documents and indexes maintained by a</u>
- 19 <u>recorder.</u>
- 20 (6) Owner means a person that has a fee interest in real property.
- 21 (7) Person means an individual, estate, business or nonprofit
- 22 entity, government or governmental subdivision, agency, or
- 23 <u>instrumentality</u>, or other legal entity.
- 24 (8) Record, used as a noun, means information:
- 25 (A) inscribed on a tangible medium; or
- 26 (B) stored in an electronic or other medium and retrievable in
- 27 <u>perceivable form.</u>
- 28 (9) Recorder means an officer authorized under other law of this
- 29 <u>state to accept a document for recordation in land records.</u>
- 30 (10) Remove means eliminate any apparent or purportedly continuing
- 31 effect on title to real property.

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1 (11) Unlawful restriction means a prohibition, restriction,

- 2 <u>covenant, or condition in a document that purports to interfere with or</u>
- 3 <u>restrict the transfer, use, or occupancy of real property:</u>
- 4 (A) on the basis of race, color, religion, national origin, sex,
- 5 familial status, disability, or other personal characteristics; and
- 6 (B) in violation of other law of this state or federal law.
- 7 **Sec. 3.** Except with respect to property to which section 4 of this
- 8 <u>act applies, an owner of real property subject to an unlawful restriction</u>
- 9 may submit to the recorder for recordation in the land records an
- 10 <u>amendment to remove the unlawful restriction, but only as to the owner's</u>
- 11 <u>property.</u>
- 12 Sec. 4. (a) The governing body of an association of owners
- 13 <u>identified in a governing instrument may, without a vote of the members</u>
- 14 of the association, amend the governing instrument to remove an unlawful
- 15 restriction.
- 16 (b) A member of an association of owners may request, in a record
- 17 that sufficiently identifies an unlawful restriction in the governing
- 18 <u>instrument</u>, that the governing body exercise its authority under
- 19 <u>subsection (a) of this section. Not later than ninety days after the</u>
- 20 governing body receives the request, the governing body shall determine
- 21 reasonably and in good faith whether the governing instrument includes
- 22 the unlawful restriction. If the governing body determines the governing
- 23 instrument includes the unlawful restriction, the governing body not
- 24 later than ninety days after the determination shall amend the governing
- 25 instrument to remove the unlawful restriction.
- 26 <u>(c) Notwithstanding any provision of the governing instrument or</u>
- 27 other law of this state, the governing body may execute an amendment
- 28 <u>under this section.</u>
- 29 (d) An amendment under this section is effective notwithstanding any
- 30 provision of the governing instrument or other law of this state that
- 31 requires a vote of the members of the association of owners to amend the

- 1 governing instrument.
- 2 Sec. 5. (a) An amendment under the Uniform Unlawful Restrictions in
- 3 Land Records Act must identify the owner, the real property affected, and
- 4 the document containing the unlawful restriction. The amendment must
- 5 include a conspicuous statement in substantially the following form:
- 6 "This amendment removes from this deed or other document affecting
- 7 title to real property an unlawful restriction as defined under the
- 8 Uniform Unlawful Restrictions in Land Records Act. This amendment does
- 9 <u>not affect the validity or enforceability of a restriction that is not an</u>
- 10 unlawful restriction."
- 11 (b) The amendment must be executed and acknowledged in the manner
- 12 <u>required for recordation of a document in the land records. The amendment</u>
- 13 must be recorded in the land records of each county in which the document
- 14 <u>containing the unlawful restriction is recorded.</u>
- 15 (c) The amendment does not affect the validity or enforceability of
- any restriction that is not an unlawful restriction.
- 17 <u>(d) The amendment or a future conveyance of the affected real</u>
- 18 property is not a republication of a restriction that otherwise would
- 19 <u>expire by passage of time under other law of this state.</u>
- Sec. 6. The following form may be used by an owner to make an
- 21 <u>amendment under section 3 of this act:</u>
- 22 Amendment by Owner to Remove an Unlawful Restriction
- 23 This amendment is recorded under the Uniform Unlawful Restrictions
- 24 in Land Records Act (the act), by an owner of an interest in real
- 25 property subject to an unlawful restriction as defined under the act.
- 26 <u>(1) Name of owner:</u>
- 27 (2) Owner's property that is subject to the unlawful restriction is
- 28 <u>described as follows:</u>
- 29 <u>Address:</u>
- 30 <u>Legal Description:</u>
- 31 (3) This amendment amends the following document:

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|--------------|---|
| 1 | Title of document being amended: |
| 2 | Recording date of document being amended: |
| 3 | Recording information (book/page or instrument number): |
| 4 | This amendment removes from the document described in paragraph (3) |
| 5 | all unlawful restrictions as defined under the act. Removal of an |
| 6 | unlawful restriction through this amendment does not affect the validity |
| 7 | and enforceability of any other restriction that is not an unlawful |
| 8 | restriction as defined under the act, at the time of filing this |
| 9 | amendment. This amendment is not effective if the property is subject to |
| 10 | a governing instrument as defined under the act. |
| 11 | <u></u> |
| 12 | <u>Owner's Signature</u> <u>Date</u> |
| 13 | This document was acknowledged before me this day |
| 14 | of (name of person |
| 15 | acknowledged). |
| 16 | (Seal) |
| 17 | Notary Public |
| 18 | Sec. 7. (a) The recorder shall record an amendment submitted under |
| 19 | the Uniform Unlawful Restrictions in Land Records Act, add the amendment |
| 20 | to the index, and cross reference the amendment to the document |
| 21 | containing the unlawful restriction. |
| 22 | (b) The recorder and the recorder's jurisdiction are not liable for |
| 23 | recording an amendment under the Uniform Unlawful Restrictions in Land |
| 24 | Records Act. |
| 25 | Sec. 8. In applying and construing the Uniform Unlawful |
| 26 | Restrictions in Land Records Act, a court shall consider the promotion of |
| 27 | uniformity of the law among jurisdictions that enact it. |
| 28 | Sec. 9. The Uniform Unlawful Restrictions in Land Records Act |
| 29 | modifies, limits, or supersedes the Electronic Signatures in Global and |
| 30 | National Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, |
| 31 | limit, or supersede 15 U.S.C. 7001(c), or authorize electronic delivery |

of any of the notices described in 15 U.S.C. 7003(b).