**Uniform Unlawful Restrictions in Land Records Act**

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT

IN ALL THE STATES



*WITHOUT Comments*

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By

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

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**Uniform Unlawful Restrictions in Land Records Act**

# Section 1. Title

 This [act] may be cited as the Uniform Unlawful Restrictions in Land Records Act.

# Section 2. Definitions

In this [act]:

 (1) “Amendment” means a document that removes an unlawful restriction.

 (2) “Document” means a record recorded or eligible to be recorded in land records.

 (3) “Governing instrument” means a document recorded in land records that:

 (A) establishes a governing body responsible for management of common areas or facilities used by more than one owner of a property interest affected by the document; and

 (B) requires contribution, enforceable by a lien on a separate property interest, of a share of taxes, insurance premiums, maintenance, or improvement of, or services or other expenses for the common benefit of, the real property described in the document.

 (4) “Index” means a system that enables a search for a document in land records.

 (5) “Land records” means documents and indexes maintained by a recorder.

 (6) “Owner” means a person that has a fee interest in real property.

 (7) “Person” means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

 (8) “Record”, used as a noun, means information:

 (A) inscribed on a tangible medium; or

 (B) stored in an electronic or other medium and retrievable in perceivable form.

 (9) “Recorder” means an officer authorized under other law of this state to accept a document for recordation in land records.

 (10) “Remove” means eliminate any apparent or purportedly continuing effect on title to real property.

 (11) “Unlawful restriction” means a prohibition, restriction, covenant, or condition in a document that purports to interfere with or restrict the transfer, use, or occupancy of real property:

 (A) on the basis of race, color, religion, national origin, sex, familial status, disability, or other personal characteristics; and

 (B) in violation of other law of this state or federal law.

#  Section 3. Amendment by Owner

 Except with respect to property to which Section 4 applies, an owner of real property subject to an unlawful restriction may submit to the recorder for recordation in the land records an amendment to remove the unlawful restriction, but only as to the owner’s property.

# Section 4. Amendment by Association of Owners

(a) The governing body of an association of owners identified in a governing instrument may, without a vote of the members of the association, amend the governing instrument to remove an unlawful restriction.

(b) A member of an association of owners may request, in a record that sufficiently identifies an unlawful restriction in the governing instrument, that the governing body exercise its authority under subsection (a). Not later than 90 days after the governing body receives the request, the governing body shall determine reasonably and in good faith whether the governing instrument includes the unlawful restriction. If the governing body determines the governing instrument includes the unlawful restriction, the governing body not later than 90 days after the determination shall amend the governing instrument to remove the unlawful restriction.

(c) Notwithstanding any provision of the governing instrument or other law of this state, the governing body may execute an amendment under this section.

(d) An amendment under this section is effective notwithstanding any provision of the governing instrument or other law of this state that requires a vote of the members of the association of owners to amend the governing instrument.

#  Section 5. Requirements and Limitations of Amendment

 (a) An amendment under this [act] must identify the owner, the real property affected, and the document containing the unlawful restriction. The amendment must include a conspicuous statement in substantially the following form:

“This amendment removes from this deed or other document affecting title to real property an unlawful restriction as defined under the Uniform Unlawful Restrictions in Land Records Act. This amendment does not affect the validity or enforceability of a restriction that is not an unlawful restriction.”

 (b) The amendment must be executed and acknowledged in the manner required for recordation of a document in the land records. The amendment must be recorded in the land records of each [county] in which the document containing the unlawful restriction is recorded.

(c) The amendment does not affect the validity or enforceability of any restriction that is not an unlawful restriction.

 (d) The amendment or a future conveyance of the affected real property is not a republication of a restriction that otherwise would expire by passage of time under other law of this state.

***Legislative Note:*** In subsection (b), insert the name of the state’s jurisdiction where documents are recorded in the land records.

[Section 6. Optional Form for Amendment by Owner

The following form may be used by an owner to make an amendment under Section 3:

**Amendment by Owner to Remove an Unlawful Restriction**

This Amendment is recorded under [cite to the state’s Uniform Unlawful Restrictions in Land Records Act] (the Act), by an Owner of an interest in real property subject to an unlawful restriction as defined under the Act.

 (1) Name of Owner:

 (2) Owner’s property that is subject to the unlawful restriction is described as follows:

 Address:

 Legal Description:

 (3) This Amendment amends the following document:

 Title of document being amended:

 Recording date of document being amended:

 Recording information (book/page or instrument number):

This Amendment removes from the document described in paragraph (3) all unlawful restrictions as defined under the Act. Removal of an unlawful restriction through this Amendment does not affect the validity and enforceability of any other restriction that is not an unlawful restriction as defined under the Act, at the time of filing this Amendment. This Amendment is not effective if the property is subject to a governing instrument as defined under the Act.

Owner’s Signature Date

Notary Acknowledgment Witnesses (if required)]

***Legislative Note:*** *A state may include the optional form in the act. The state should conform the notary and witness requirements in the optional form to state law.*

# Section 7. Duty and Liability of Recorder

(a) The recorder shall record an amendment submitted under this [act], add the amendment to the index, and cross reference the amendment to the document containing the unlawful restriction.

 (b) The recorder and the recorder’s jurisdiction are not liable for recording an amendment under this [act].

# Section 8. Uniformity of Application and Construction

 In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

#  Section 9. Relation to Electronic Signatures in Global and National Commerce Act

 This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq.[, as amended], but does not modify, limit, or supersede 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

***Legislative Note:*** *It is the intent of this act to incorporate future amendments to the cited federal law. A state in which the constitution or other law does not permit incorporation of future amendments when a federal statute is incorporated into state law should omit the phrase “, as amended”. A state in which, in the absence of a legislative declaration, future amendments are incorporated into state law also should omit the phrase.*

#  [Section 10. Severability

 If a provision of this [act] or its application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.]

***Legislative Note:*** *Include this section only if the state lacks a general severability statute or a decision by the highest court of the state adopting a general rule of severability.*

#  Section 11. Effective Date

 This [act] takes effect . . .