

[First Reprint]

SENATE, No. 2861

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED AUGUST 27, 2020

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

SYNOPSIS

Concerns certain restrictive covenants on real property.

CURRENT VERSION OF TEXT

As amended by the Senate on October 29, 2020.



1 **AN ACT** concerning discriminatory restrictive covenants in deeds
2 and supplementing Title 46 of the Revised Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. A deed recorded on or after January 1, 2021 shall not
8 contain a reference to the specific portion of a restrictive covenant
9 purporting to restrict the ownership or use of real property as
10 prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection
11 g. of section 11 of P.L.1945, c.169 (C.10:5-12). A county clerk or a
12 register of deeds and mortgages shall refuse to accept any deed
13 submitted for recordation that references the specific portion of any
14 such restrictive covenant. An attorney or title company preparing
15 or submitting a deed for recordation shall ensure that the specific
16 portion of such a restrictive covenant is not specifically referenced
17 in the deed prior to the deed being submitted for recordation. A
18 deed may include a general provision that states that the deed is
19 subject to any and all covenants of record; however, such provisions
20 shall not apply to the specific portion of a restrictive covenant
21 purporting to restrict the ownership or use of the property as
22 prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection
23 g. of section 11 of P.L.1945, c.169 (C.10:5-12).

24 Any deed that is recorded in the land records on or after January
25 1, 2021 that mistakenly contains such a restrictive covenant shall
26 nevertheless constitute a valid transfer of real property.

27
28 2. A restrictive covenant prohibited by section 4 of P.L.1945,
29 c.169 (C.10:5-4) or subsection g. of section 11 of P.L.1945, c.169
30 (C.10:5-12) may be released by the owner of the real property
31 subject to the restrictive covenant by recording a “Certificate of
32 Release of Certain Prohibited Covenants.” The real property owner
33 may record such a certificate prior to recordation of a deed
34 conveying real property to a purchaser, or when a real property
35 owner discovers that such a prohibited covenant exists and chooses
36 to affirmatively release it. The form of the certificate shall be
37 promulgated by the Administrative Office of the Courts, and shall
38 be available at the county office, or on the website, of the county
39 clerk or register of deeds and mortgages, as appropriate to the
40 county in which the real property is located. There shall be no
41 filing fee, or any other fee, charged to the owner of a real property
42 for the filing of this certificate.

43 The certificate promulgated by the Administrative Office of the
44 Courts shall conform substantially to the following “Certificate of
45 Release of Certain Prohibited Covenants” format:

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted October 29, 2020.

1 CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED
2 COVENANTS

3
4 County of Record: _____

5
6 Date of Deed Containing Prohibited Covenant: _____

7
8 Deed Book: _____ Page: _____

9
10 Name(s) of Grantor(s): _____

11
12 Name(s) of Current Owner(s): _____

13
14 Real Property Description: _____

15
16 Brief Description of Prohibited Covenant: _____

17
18 The covenant contained in the above-mentioned deed is released
19 from the above-described real property to the extent that it contains
20 terms purporting to restrict the ownership or use of the property as
21 prohibited in section 4 of P.L.1945, c.169 (C.10:5-4).

22
23 The undersigned is/are the legal owners of the property described
24 herein.

25
26 Given under my/our hand(s) this _____ day of _____,
27 20__.

28
29 _____

30
31 _____

32 (Current Owners)

33
34 State of New Jersey
35 County of _____

36
37 Subscribed, sworn to, and acknowledged before me this _____ day
38 of _____, 20__.

39
40 _____

41 Notary Public

42
43 Notary Registration Number: _____

44
45 My Commission Expires: _____

46
47 ¹3. a. As used in this section:

1 “Association” shall mean a homeowners’ or property owners’
2 association, cooperative corporation, condominium association, or
3 planned community acting through a majority vote of its full board
4 membership; and

5 “Board” shall mean the governing board of an association.

6 b. Within 90 days of the enactment of P.L. _____, c. _____ (C. _____)
7 (pending before the Legislature as this bill), each board shall review
8 the association’s governing documents to determine whether those
9 documents contain any restriction, covenant, or condition, that
10 prohibits or limits the conveyance, encumbrance, rental, occupancy,
11 or use of real property as prohibited by section 4 of P.L.1945, c.169
12 (C.10:5-4) or subsection g. of section 11 of P.L.1945, c.169
13 (C.10:5-12). If an association finds such an unlawful restriction,
14 covenant, or condition in any of those documents, it shall amend the
15 document or documents to remove the restriction, covenant, or
16 condition. Removal of such a restriction, covenant, or condition
17 shall not require approval of the members of the association,
18 notwithstanding any provision of the governing documents to the
19 contrary.

20 c. If, after the review and amendment of governing documents
21 pursuant to subsection b. of this section has been completed, a
22 board receives a written request from a member of the association
23 to remove from those documents language that the member believes
24 to be an unlawful restriction, covenant, or condition that prohibits
25 or limits the conveyance, encumbrance, rental, occupancy, or use of
26 real property as prohibited by section 4 of P.L.1945, c.169 (C.10:5-
27 4) or subsection g. of section 11 of P.L.1945, c.169 (C.10:5-12), the
28 board shall immediately undertake a review of the document or
29 documents, which review shall be completed within 30 days of the
30 member’s written request. If the board determines that the member
31 is correct, the board shall amend the document or documents to
32 remove the restriction, covenant, or condition within 30 days of its
33 determination.¹

34
35 ¹**[3.] 4.** This act shall take effect immediately.