

ENROLLED ACT NO. 32, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

AN ACT relating to real property and conveyances; establishing procedures for removing unenforceable restrictive covenants for real property; specifying what restrictive covenants are unenforceable; providing immunity from civil liability as specified; authorizing a civil action for new instruments recorded to remove an enforceable restrictive covenant; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 34-1-154 through 34-1-156 are created to read:

34-1-154. Removal of restrictive covenants in violation of law.

(a) Any person who holds an ownership interest of record in real property in this state, or any attorney, title insurance company or title insurance agent authorized to do business in this state and acting on behalf of a person with an ownership interest in real property in this state, may record a new instrument to remove any restrictive covenant contained in any conveyance encumbering or otherwise affecting the transfer or sale of, or any interest in, real property that:

(i) Is held to be void and unenforceable by a final determination of the supreme court of Wyoming or the supreme court of the United States of America; or

(ii) Is in violation of the acts prohibited by W.S. 40-26-103 through 40-26-109.

ENROLLED ACT NO. 32, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(b) Except as provided in W.S. 34-1-156, any person who, in good faith, delivers or records any instrument pursuant to subsection (a) of this section shall be immune from civil liability. The immunity provided in this subsection shall not be available to any person who:

(i) Represents or attempts to represent that the restrictive covenants pertaining to paragraphs (a)(i) or (ii) of this section, which are void and unenforceable or prohibited by law, are valid and enforceable; or

(ii) Honors or exercises or attempts to honor or exercise restrictive covenants pertaining to paragraphs (a)(i) or (ii) of this section, which are void and unenforceable or prohibited by law.

34-1-155. Process for removing restrictive covenants in violation of law.

(a) In accordance with W.S. 34-1-154, a new instrument removing a restrictive covenant that is in violation of law may be recorded by filing the new instrument with the county clerk for the county in which the real property is located.

(b) A new instrument filed and recorded under this section shall contain all of the following:

(i) The title of the filed and recorded prior instrument to which the new instrument pertains;

(ii) The name and mailing address of the person filing and recording the new instrument;

ENROLLED ACT NO. 32, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(iii) The name and mailing address of any owner of record of the real property on whose behalf the new instrument is being filed;

(iv) The legal description of the real property subject to the provisions in violation of law as specified in W.S. 34-1-154(a);

(v) A clear reference to the provisions in the prior instrument that are in violation of law as specified in W.S. 34-1-154(a) and have been stricken from the new instrument.

(c) Upon receiving a new instrument that complies with the requirements of subsection (b) of this section, the county clerk for the county in which the real property is located shall file and record the new instrument.

34-1-156. Civil action for removing enforceable covenants.

(a) Any person whose real property is subject to, or is benefitted by, a restrictive covenant that was removed under W.S. 34-1-155 and who believes the restrictive covenant is valid, may petition the court having jurisdiction over the property. The petition shall state the grounds upon which relief is requested, and shall be supported by the affidavit of the petitioner or his attorney setting forth a concise statement of the facts upon which the petition is based. The clerk of court shall assign a case number to the petition and obtain from the petitioner a filing fee of thirty-five dollars (\$35.00). Upon the filing of the petition the following shall apply:

ENROLLED ACT NO. 32, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

(i) The court may enter its order, which may be granted ex parte, directing the person who filed and recorded the instrument to appear before the court at a time no earlier than six (6) nor later than fifteen (15) days following the date of service of the petition, and order the person to show cause, if any, why the relief provided in this subsection should not be granted. Service under this section shall be made in accordance with the rules of civil procedure;

(ii) If, following a hearing on the matter the court determines that the restrictive covenant under subsection (a) of this section is valid and enforceable, the court shall issue an order so stating and awarding damages of up to one thousand dollars (\$1,000.00) as determined by the court or actual damages, whichever is greater, costs and reasonable attorneys' fees to the petitioner to be paid by the person who filed and recorded the instrument;

(iii) If the court determines that the restrictive covenant is void and unenforceable, the court shall issue an order so stating and shall award costs and reasonable attorneys' fees to the person who filed and recorded the instrument to be paid by the petitioner.

ORIGINAL HOUSE
BILL NO. HB0091

ENGROSSED

ENROLLED ACT NO. 32, HOUSE OF REPRESENTATIVES

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING
2021 GENERAL SESSION

Section 2. This act is effective July 1, 2021.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk