



**HB0091**

**Removal of unenforceable property covenants.**

Sponsored By: Representative(s) Duncan, Baker, Banks, Blackburn, Connolly, Kinner, Newsome, Olsen and Zwonitzer and Senator(s) Driskill, Nethercott and Pappas

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.

2/1/2021 Bill Number Assigned  
2/2/2021 H Received for Introduction  
2/5/2021 H Introduced and Referred to H07 - Corporations  
3/1/2021 H07 - Corporations:Recommend Amend and Do Pass 9-0-0-0-0

**ROLL CALL**

**Ayes:** Representative(s) Blackburn, Clausen, Clifford, Duncan, Eyre, Hunt, Macguire, Roscoe, Zwonitzer

**Ayes** 9    **Nays** 0    **Excused** 0    **Absent** 0    **Conflicts** 0

3/1/2021 H Placed on General File

**HB0091HS001/ADOPTED**

Page 3-line 16 After "conveyance" insert "which violates W.S. 40-26-103 through 40-26-109".

Page 3-line 19 Delete "If this" and insert "This".

Page 3-line 20 Delete "any" and insert "a".

Page 3-line 22 Delete "restriction"; delete "state and federal".  
ZWONITZER, CHAIRMAN

3/1/2021 H COW:Passed

**HB0091H2001/ADOPTED**

Page 1-line 5 After "specified;" insert "authorizing a civil action for new instruments recorded to remove an enforceable restrictive covenant;".

Page 1-line 10 Delete "and 34-1-155" and insert "through 34-1-156".

Page 2-line 19 After "(b)" delete balance of line.

Page 2-line 20 Delete "contrary" and insert "Except as provided in W.S. 34-1-156".

Page 5-after line 17 Insert:

**"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:

(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.". CRAGO

3/2/2021 H 2nd Reading:Passed  
3/3/2021 H 3rd Reading:Passed 57-2-1-0-0

#### ROLL CALL

**Ayes:** Representative(s) Andrew, Baker, Banks, Barlow, Bear, Blackburn, Brown, Burkhart, Burt, Clausen, Clifford, Connolly, Crago, Duncan, Eklund, Eyre, Flitner, Gray, Greear, Hallinan, Haroldson, Harshman, Heiner, Henderson, Hunt, Jennings, Kinner, Knapp, Larsen, L, Macguire, Martinez, Neiman, Newsome, Nicholas, Oakley, Obermueller, O'hearn, Olsen, Ottman, Paxton, Provenza, Roscoe, Schwartz, Sherwood, Simpson, Sommers, Stith, Styvar, Sweeney, Walters, Washut, Western, Williams, Wilson, Winter, Yin, Zwonitzer

**Nays:** Representative(s) Fortner, Laursen, D

**Excused:** Representative Wharff

**Ayes** 57      **Nays** 2      **Excused** 1      **Absent** 0      **Conflicts** 0

3/4/2021 S Received for Introduction  
3/17/2021 S Introduced and Referred to S07 - Corporations  
3/18/2021 S07 - Corporations:Recommend Do Pass 5-0-0-0-0

#### ROLL CALL

**Ayes:** Senator(s) Boner, Case, Driskill, Nethercott, Scott

**Ayes** 5      **Nays** 0      **Excused** 0      **Absent** 0      **Conflicts** 0

3/18/2021 S Placed on General File  
3/23/2021 S COW:Passed

**HB0091S2001/ADOPTED (TO ENGROSSED COPY)**

Page 3-lines 14 through 23 Delete entirely.

Page 4-lines 1 and 2

Delete entirely. BOUCHARD

3/24/2021 S 2nd Reading:Passed

3/25/2021 S 3rd Reading:Passed 24-6-0-0-0

**ROLL CALL**

**Ayes:** Senator(s) Anderson, Baldwin, Biteman, Boner, Bouchard, Case, Dockstader, Driskill, Ellis, French, Furphy, Gierau, James, Kost, Landen, Mckeown, Nethercott, Pappas, Rothfuss, Salazar, Schuler, Scott, Steinmetz, Wasserburger

**Nays:** Senator(s) Cooper, Hicks, Hutchings, Kinskey, Kolb, Perkins

**Ayes** 24    **Nays** 6    **Excused** 0    **Absent** 0    **Conflicts** 0

3/25/2021 H Received for Concurrence

3/26/2021 H Concur:Passed 60-0-0-0-0

**ROLL CALL**

**Ayes:** Representative(s) Andrew, Baker, Banks, Barlow, Bear, Blackburn, Brown, Burkhart, Burt, Clausen, Clifford, Connolly, Crago, Duncan, Eklund, Eyre, Flitner, Fortner, Gray, Greear, Hallinan, Haroldson, Harshman, Heiner, Henderson, Hunt, Jennings, Kinner, Knapp, Larsen, L, Laursen, D, Macguire, Martinez, Neiman, Newsome, Nicholas, Oakley, Obermueller, O'hearn, Olsen, Ottman, Paxton, Provenza, Roscoe, Schwartz, Sherwood, Simpson, Sommers, Stith, Styvar, Sweeney, Walters, Washut, Western, Wharff, Williams, Wilson, Winter, Yin, Zwonitzer

**Ayes** 60    **Nays** 0    **Excused** 0    **Absent** 0    **Conflicts** 0

3/26/2021 Assigned Number HEA No. 0032

3/30/2021 H Speaker Signed HEA No. 0032

3/30/2021 S President Signed HEA No. 0032

4/2/2021 Governor Signed HEA No. 0032

4/2/2021 Assigned Chapter Number 70

Chapter No. 70 Session Laws of Wyoming 2021