

**RCW 64.38.028 Removal of discriminatory provisions in governing documents—Procedure.** (1) The association, acting through a simple majority vote of its board, may amend the association's governing documents for the purpose of removing:

(a) Every covenant, condition, or restriction that is void by reason of RCW 49.60.224; and

(b) Every covenant, condition, restriction, or prohibition, including a right of entry or possibility of reverter, that directly or indirectly limits the use or occupancy of real property on the basis of a protected class under chapter 49.60 RCW.

(2) Upon the board's receipt of a written request by a member of the association that the board exercise its amending authority granted under subsection (1) of this section, the board must, within a reasonable time, amend the governing documents, as provided under this section.

(3) Amendments under subsection (1) of this section may be executed by any board officer.

(4) Amendments made under subsection (1) of this section must be recorded in the public records and state the following:

"This amendment strikes from these covenants, conditions, and restrictions those provisions that are void under RCW 49.60.224. Specifically, this amendment strikes:

(a) Those provisions that forbid or restrict use, occupancy, conveyance, encumbrance, or lease of real property to individuals on the basis of a protected class under chapter 49.60 RCW; and

(b) Every covenant, condition, restriction, or prohibition, including a right of entry or possibility of reverter, that directly or indirectly limits the use or occupancy of real property on the basis of a protected class under chapter 49.60 RCW."

(5) Board action under this section does not require the vote or approval of the owners.

(6) As provided in RCW 49.60.227:

(a) Any owner, occupant, or tenant in the association or board may bring an action in superior court to have any provision of a written instrument that is void pursuant to RCW 49.60.224 stricken from the public records; or

(b) Any owner of property subject to a written instrument that contains a provision that is void pursuant to RCW 49.60.224 may record a restrictive covenant modification as defined in RCW 49.60.227.

(7) Nothing in this section prohibiting discrimination based on families with children status applies to housing for older persons as defined by the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995. Nothing in this section authorizes requirements for housing for older persons different than the requirements in the federal fair housing amendments act of 1988, 42 U.S.C. Sec. 3607(b)(1) through (3), as amended by the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995.

(8) Except as otherwise provided in subsection (2) of this section, (a) nothing in this section creates a duty on the part of owners, occupants, tenants, associations, or boards to amend the governing documents as provided in this section, or to bring an action

as authorized under this section and RCW 49.60.227; and (b) an owner, occupant, tenant, association, or board is not liable for failing to amend the governing documents or to pursue an action in court as authorized under this section and RCW 49.60.227. [2018 c 65 § 2; 2006 c 58 § 2.]

**Finding—Intent—2006 c 58:** "The legislature finds that some homeowners' associations have governing documents that contain discriminatory covenants, conditions, or restrictions that are void and unenforceable under both the federal fair housing amendments act of 1988 and RCW 49.60.224. The continued existence of these discriminatory covenants, conditions, or restrictions is contrary to public policy and repugnant to many property owners. It is the intent of chapter 58, Laws of 2006 to allow homeowners' associations to remove all remnants of discrimination from their governing documents." [2006 c 58 § 1.]