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**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1335**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Valdez, Rude, Berry, Fitzgibbon, Morgan, Santos, Shewmake, Davis, Berg, Gilday, Bergquist, Fey, Bateman, Lekanoff, Lovick, Callan, Riccelli, Rule, Pollet, Senn, and Harris-Talley)

AN ACT Relating to review and property owner notification of recorded documents with unlawful racial restrictions; amending RCW 64.06.020 and 49.60.227; adding a new section to chapter 49.60 RCW; creating new sections; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that the existence of racial, religious, or ethnic-based property restrictions or covenants on a deed or chain of title for real property is like having a monument to racism on that property and is repugnant to the tenets of equality. Furthermore, such restrictions and covenants may cause mental anguish and tarnish a property owner's sense of ownership in the property because the owner feels as though they have participated in a racist act themselves.

It is the intent of the legislature that the owner, occupant, or tenant or homeowners' association board of the property which is subject to an unlawful deed restriction or covenant pursuant to RCW 49.60.224 is entitled to have discriminatory covenants and restrictions that are contrary to public policy struck from their chain of title. The legislature has presented two ways this can be accomplished through RCW 49.60.227(1) (a) and (b). If the owner, occupant, or tenant or homeowners' association board of the property elects to pursue a judicial remedy, the legislature intends that the court issue a declaratory judgment ordering the county auditor, or in charter counties the county official charged with the responsibility for recording instruments in the county records, to entirely strike the racist or otherwise discriminatory covenants from the chain of title. Striking the language does not prevent preservation of the original record, outside of the chain of title, for historical or archival purposes.

The legislature finds that striking racist, religious, and ethnic restrictions or covenants from the chain of title is no different than having an offensive statutory monument which the owner may entirely remove. So too should the owner be able to entirely remove the offensive written monument to racism or other unconstitutional discrimination.

NEW SECTION. **Sec.**  A new section is added to chapter 49.60 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the University of Washington and Eastern Washington University shall review existing recorded covenants and deed restrictions to identify those recorded documents that include racial or other restrictions on property ownership or use against protected classes that are unlawful under RCW 49.60.224. For properties subject to such racial and other unlawful restrictions, the universities shall provide notice to the property owner and to the county auditor of the county in which the property is located. The universities shall provide information to the property owner on how such provisions can be struck pursuant to RCW 49.60.227. The universities may contract with other public and private not-for-profit higher education institutions that are regionally accredited to carry out the review and notification requirements of this section.

(2) This section expires July 1, 2027.

**Sec.**  RCW 64.06.020 and 2019 c 455 s 3 are each amended to read as follows:

(1) In a transaction for the sale of improved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any \* items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT

("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller . . . . is/ . . . . is not occupying the property.

|  |  |
| --- | --- |
|  | **I. SELLER'S DISCLOSURES:** |
| \*If you answer "Yes" to a question with an asterisk (\*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet. |
|  | **1. TITLE** |
| [ ] Yes | [ ] No | [ ] Don't know | A. Do you have legal authority to sell the property? If no, please explain. |
| [ ] Yes | [ ] No | [ ] Don't know | \*B. Is title to the property subject to any of the following? |
|  | (1) First right of refusal |
|  | (2) Option |
|  | (3) Lease or rental agreement |
|  | (4) Life estate? |
| [ ] Yes | [ ] No | [ ] Don't know | \*C. Are there any encroachments, boundary agreements, or boundary disputes? |
| [ ] Yes | [ ] No | [ ] Don't know | \*D. Is there a private road or easement agreement for access to the property? |
| [ ] Yes | [ ] No | [ ] Don't know | \*E. Are there any rights‑of‑way, easements, or access limitations that may affect the Buyer's use of the property? |
| [ ] Yes | [ ] No | [ ] Don't know | \*F. Are there any written agreements for joint maintenance of an easement or right‑of‑way? |
| [ ] Yes | [ ] No | [ ] Don't know | \*G. Is there any study, survey project, or notice that would adversely affect the property? |
| [ ] Yes | [ ] No | [ ] Don't know | \*H. Are there any pending or existing assessments against the property? |
| [ ] Yes | [ ] No | [ ] Don't know | \*I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling? |
| [ ] Yes | [ ] No | [ ] Don't know | \*J. Is there a boundary survey for the property? |
| [ ] Yes | [ ] No | [ ] Don't know | \*K. Are there any covenants, conditions, or restrictions recorded against the property?NOTICE TO THE BUYER: Covenants or deed restrictions based on race, creed, sexual orientation, or other protected class were voided by RCW 49.60.224 and are unenforceable. Washington law allows for the illegal language to be struck by bringing an action in superior court or by the free recording of a restrictive covenant modification document. Many county auditor websites provide a short form with instructions on this process. |
|  | **2. WATER** |
|  | A. Household Water |
|  | (1) The source of water for the property is:[ ] Private or publicly owned water system[ ] Private well serving only the subject property . . . . . .\*[ ] Other water system |
| [ ] Yes | [ ] No | [ ] Don't know | \*If shared, are there any written agreements? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(3) Are there any problems or repairs needed? |
| [ ] Yes | [ ] No | [ ] Don't know |  | (4) During your ownership, has the source provided an adequate year‑round supply of potable water? If no, please explain. |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(5) Are there any water treatment systems for the property? If yes, are they [ ] Leased [ ] Owned |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim? |
| [ ] Yes | [ ] No | [ ] Don't know |  | (a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed? |
|  |  |  |  | \*(b) If yes, has all or any portion of the water right not been used for five or more successive years? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(7) Are there any defects in the operation of the water system (e.g. pipes, tank, pump, etc.)? |
|  | B. Irrigation Water |
| [ ] Yes | [ ] No | [ ] Don't know |  | (1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(a) If yes, has all or any portion of the water right not been used for five or more successive years? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(b) If so, is the certificate available? (If yes, please attach a copy.) |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(c) If so, has the water right permit, certificate, or claim been assigned, transferred, or changed? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies water to the property: |
|  | C. Outdoor Sprinkler System |
| [ ] Yes | [ ] No | [ ] Don't know |  | (1) Is there an outdoor sprinkler system for the property? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(2) If yes, are there any defects in the system? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(3) If yes, is the sprinkler system connected to irrigation water? |
|  | **3. SEWER/ON-SITE SEWAGE SYSTEM** |
|  | A. The property is served by:[ ] Public sewer system,[ ] On-site sewage system (including pipes, tanks, drainfields, and all other component parts)[ ] Other disposal system, please describe: |
| [ ] Yes | [ ] No | [ ] Don't know | B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain. |
| [ ] Yes | [ ] No | [ ] Don't know | \*C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service? |
|  |  |  | D. If the property is connected to an on-site sewage system: |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction? |
|  | (2) When was it last pumped? |
|  |   . . . |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(3) Are there any defects in the operation of the on-site sewage system? |
|  | [ ] Don't know |  | (4) When was it last inspected? |
|  |   . . . |
|  | By whom:  |
|  | [ ] Don't know |  | (5) For how many bedrooms was the on-site sewage system approved? |
|  |  bedrooms |
| [ ] Yes | [ ] No | [ ] Don't know | E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain:  |
| [ ] Yes | [ ] No | [ ] Don't know | \*F. Have there been any changes or repairs to the on-site sewage system? |
| [ ] Yes | [ ] No | [ ] Don't know | G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.  |
| [ ] Yes | [ ] No | [ ] Don't know | \*H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year?  |
| NOTICE: IF THIS RESIDENTIAL REAL PROPERTY DISCLOSURE STATEMENT IS BEING COMPLETED FOR NEW CONSTRUCTION WHICH HAS NEVER BEEN OCCUPIED, THE SELLER IS NOT REQUIRED TO COMPLETE THE QUESTIONS LISTED IN ITEM 4. STRUCTURAL OR ITEM 5. SYSTEMS AND FIXTURES |
|  | **4. STRUCTURAL** |
| [ ] Yes | [ ] No | [ ] Don't know | \*A. Has the roof leaked within the last five years? |
| [ ] Yes | [ ] No | [ ] Don't know | \*B. Has the basement flooded or leaked? |
| [ ] Yes | [ ] No | [ ] Don't know | \*C. Have there been any conversions, additions, or remodeling? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(1) If yes, were all building permits obtained? |
| [ ] Yes | [ ] No | [ ] Don't know |  | \*(2) If yes, were all final inspections obtained? |
| [ ] Yes | [ ] No | [ ] Don't know | D. Do you know the age of the house? If yes, year of original construction: |
| [ ] Yes | [ ] No | [ ] Don't know | \*E. Has there been any settling, slippage, or sliding of the property or its improvements? |
| [ ] Yes | [ ] No | [ ] Don't know | \*F. Are there any defects with the following: (If yes, please check applicable items and explain.) |
|  | □ Foundations | □ Decks | □ Exterior Walls |
|  | □ Chimneys | □ Interior Walls | □ Fire Alarm |
|  | □ Doors | □ Windows | □ Patio |
|  | □ Ceilings | □ Slab Floors | □ Driveways |
|  | □ Pools | □ Hot Tub | □ Sauna |
|  | □ Sidewalks | □ Outbuildings | □ Fireplaces |
|  | □ Garage Floors | □ Walkways | □ Siding |
|  | □ Other | □ Woodstoves | □ Elevators |
|  | □ Incline Elevators | □ Stairway Chair Lifts | □ Wheelchair Lifts |
| [ ] Yes | [ ] No | [ ] Don't know | \*G. Was a structural pest or "whole house" inspection done? If yes, when and by whom was the inspection completed?  |
| [ ] Yes | [ ] No | [ ] Don't know | H. During your ownership, has the property had any wood destroying organism or pest infestation? |
| [ ] Yes | [ ] No | [ ] Don't know | I. Is the attic insulated? |
| [ ] Yes | [ ] No | [ ] Don't know | J. Is the basement insulated? |
|  | **5. SYSTEMS AND FIXTURES** |
|  | \*A. If any of the following systems or fixtures are included with the transfer, are there any defects? If yes, please explain. |
| [ ] Yes | [ ] No | [ ] Don't know |  | Electrical system, including wiring, switches, outlets, and service |
| [ ] Yes | [ ] No | [ ] Don't know |  | Plumbing system, including pipes, faucets, fixtures, and toilets |
| [ ] Yes | [ ] No | [ ] Don't know |  | Hot water tank |
| [ ] Yes | [ ] No | [ ] Don't know |  | Garbage disposal |
| [ ] Yes | [ ] No | [ ] Don't know |  | Appliances |
| [ ] Yes | [ ] No | [ ] Don't know |  | Sump pump |
| [ ] Yes | [ ] No | [ ] Don't know |  | Heating and cooling systems |
| [ ] Yes | [ ] No | [ ] Don't know |  | Security system[ ] Owned [ ] Leased |
|  |  |  |  | Other  |
|  |  |  | \*B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.) |
| [ ] Yes | [ ] No | [ ] Don't know |  | Security system . . . . . . |
| [ ] Yes | [ ] No | [ ] Don't know |  | Tanks (type): . . . . . . |
| [ ] Yes | [ ] No | [ ] Don't know |  | Satellite dish . . . . . .Other: . . . . . . |
|  |  |  | \*C. Are any of the following kinds of wood burning appliances present at the property? |
| [ ] Yes | [ ] No | [ ] Don't know |  | (1) Woodstove? |
| [ ] Yes | [ ] No | [ ] Don't know |  | (2) Fireplace insert? |
| [ ] Yes | [ ] No | [ ] Don't know |  | (3) Pellet stove? |
| [ ] Yes | [ ] No | [ ] Don't know |  | (4) Fireplace? |
| [ ] Yes | [ ] No | [ ] Don't know |  | If yes, are all of the (1) woodstoves or (2) fireplace inserts certified by the U.S. Environmental Protection Agency as clean burning appliances to improve air quality and public health? |
| [ ] Yes | [ ] No | [ ] Don't know | D. Is the property located within a city, county, or district or within a department of natural resources fire protection zone that provides fire protection services? |
| [ ] Yes | [ ] No | [ ] Don't know | E. Is the property equipped with carbon monoxide alarms?(Note: Pursuant to RCW 19.27.530, seller must equip the residence with carbon monoxide alarms as required by the state building code.) |
| [ ] Yes | [ ] No | [ ] Don't know | F. Is the property equipped with smoke detection devices?(Note: Pursuant to RCW 43.44.110, if the property is not equipped with at least one smoke detection device, at least one must be provided by the seller.) |
|  | **6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS** |
| [ ] Yes | [ ] No | [ ] Don't know | A. Is there a Homeowners' Association? Name of Association and contact information for an officer, director, employee, or other authorized agent, if any, who may provide the association's financial statements, minutes, bylaws, fining policy, and other information that is not publicly available: |
| [ ] Yes | [ ] No | [ ] Don't know | B. Are there regular periodic assessments: |
|  | $ . . . per [ ] Month [ ] Year[ ] Other  |
| [ ] Yes | [ ] No | [ ] Don't know | \*C. Are there any pending special assessments? |
| [ ] Yes | [ ] No | [ ] Don't know | \*D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)? |
|  | **7. ENVIRONMENTAL** |
| [ ] Yes | [ ] No | [ ] Don't know | \*A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property? |
| [ ] Yes | [ ] No | [ ] Don't know | \*B. Does any part of the property contain fill dirt, waste, or other fill material? |
| [ ] Yes | [ ] No | [ ] Don't know | \*C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides? |
| [ ] Yes | [ ] No | [ ] Don't know | D. Are there any shorelines, wetlands, floodplains, or critical areas on the property? |
| [ ] Yes | [ ] No | [ ] Don't know | \*E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water? |
| [ ] Yes | [ ] No | [ ] Don't know | \*F. Has the property been used for commercial or industrial purposes? |
| [ ] Yes | [ ] No | [ ] Don't know | \*G. Is there any soil or groundwater contamination? |
| [ ] Yes | [ ] No | [ ] Don't know | \*H. Are there transmission poles or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property? |
| [ ] Yes | [ ] No | [ ] Don't know | \*I. Has the property been used as a legal or illegal dumping site? |
| [ ] Yes | [ ] No | [ ] Don't know | \*J. Has the property been used as an illegal drug manufacturing site? |
| [ ] Yes | [ ] No | [ ] Don't know | \*K. Are there any radio towers in the area that cause interference with cellular telephone reception? |
|  |  |  | **8. MANUFACTURED AND MOBILE HOMES** |
|  |  |  | If the property includes a manufactured or mobile home, |
| [ ] Yes | [ ] No | [ ] Don't know | \*A. Did you make any alterations to the home? If yes, please describe the alterations: . . . . . . . . . . |
| [ ] Yes | [ ] No | [ ] Don't know | \*B. Did any previous owner make any alterations to the home? |
| [ ] Yes | [ ] No | [ ] Don't know | \*C. If alterations were made, were permits or variances for these alterations obtained? |
|  | **9. FULL DISCLOSURE BY SELLERS** |
|  | A. Other conditions or defects: |
| [ ] Yes | [ ] No | [ ] Don't know | \*Are there any other existing material defects affecting the property that a prospective buyer should know about? |
|  | B. Verification: |
|  | The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property. |
| DATE  | SELLER  | SELLER  |
| NOTICE TO THE BUYER |
| INFORMATION REGARDING REGISTERED SEX OFFENDERS MAYBE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS. |
|  | **II. BUYER'S ACKNOWLEDGMENT** |
|  | A. | Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation. |
|  | B. | The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party. |
|  | C. | Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information. |
|  | D. | This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller. |
|  | E. | Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature. |

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE . . . . . . . BUYER . . . . . . . . . BUYER

(2) If the disclosure statement is being completed for new construction which has never been occupied, the disclosure statement is not required to contain and the seller is not required to complete the questions listed in item 4. Structural or item 5. Systems and Fixtures.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

**Sec.**  RCW 49.60.227 and 2018 c 65 s 1 are each amended to read as follows:

(1)(a) If a written instrument contains a provision that is void by reason of RCW 49.60.224, the owner, occupant, or tenant of the property which is subject to the provision or the homeowners' association board may cause the provision to be stricken from the public records by bringing an action in the superior court in the county in which the property is located. The action shall be an in rem, declaratory judgment action whose title shall be the description of the property. The necessary party to the action shall be the owner, occupant, or tenant of the property or any portion thereof. The person bringing the action shall pay a fee set under RCW 36.18.012.

(b) If the court finds that any provisions of the written instrument are void under RCW 49.60.224, it shall enter an order striking the void provisions from the public records and eliminating the void provisions from the title or lease of the property described in the complaint.

(i) A complete copy of any document affected by the order shall be made an exhibit to the order and the order shall identify each document by recording number and date of recordation and set forth verbatim the void provisions to be struck from such document. The order shall include a certified copy of each document, upon which the court has physically redacted the void provisions.

(ii) The person bringing the action may obtain and deliver a certified copy of the order to the office of the county auditor or, in charter counties, the county official charged with the responsibility for recording instruments in the county records, in the county where the property is located.

(iii) The auditor shall record the documents prepared by the court. An image of each document so corrected shall be placed in the public records. Each corrected document shall contain the following information on the first page or a cover page prepared pursuant to RCW 65.04.047: The auditor's file number or book and page of the original document, a notation that the original document was corrected pursuant to this section, the cause number of the court action, and the date the order was entered.

(iv) The auditor or official shall update the index of each original document referenced in the order with the auditor's file number of the corrected document. Further, the index will note that the original record is no longer the primary official public record and is removed from the chain of title pursuant to the court order.

(v) At the auditor's or official's discretion, the original document or image may be transferred to the secretary of state archives division to be preserved for historical or archival purposes.

(2)(a) As an alternative to the judicial procedure set forth in subsection (1) of this section, the owner of property subject to a written instrument that contains a provision that is void by reason of RCW 49.60.224 may record a restrictive covenant modification document with the county auditor, or in charter counties the county official charged with the responsibility for recording instruments in the county records, in the county in which the property is located.

(b) The modification document shall contain a recording reference to the original written instrument.

(c) The modification document must state, in part:

"The referenced original written instrument contains discriminatory provisions that are void and unenforceable under RCW 49.60.224 and federal law. This document strikes from the referenced original instrument all provisions that are void and unenforceable under law."

(d) The effective date of the modification document shall be the same as the effective date of the original written instrument.

(e) If the owner causes to be recorded a modification document that contains modifications not authorized by this section, the county auditor or recording officer shall not incur liability for recording the document. Any liability that may result is the sole responsibility of the owner who caused the recordation.

(f) No filing or recording fees or otherwise authorized surcharges shall be required for the filing of a modification document pursuant to this section.

(3) For the purposes of this section, "restrictive covenant modification document" or "modification document" means a standard form developed and designed by the Washington state association of county auditors.

NEW SECTION. **Sec.**  This act applies to real estate transactions entered into on or after January 1, 2022.

**--- END ---**