

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2514**

Chapter 65, Laws of 2018

65th Legislature  
2018 Regular Session

REAL PROPERTY INSTRUMENTS--DISCRIMINATORY PROVISIONS

EFFECTIVE DATE: June 7, 2018—Except for section 1, which becomes effective January 1, 2019.

Passed by the House February 8, 2018  
Yeas 97 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate February 27, 2018  
Yeas 48 Nays 1

CYRUS HABIB

**President of the Senate**

Approved March 15, 2018 11:11 AM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2514** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

March 16, 2018

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2514**

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Passed Legislature - 2018 Regular Session

**State of Washington                      65th Legislature                      2018 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Kilduff, Muri, Sawyer, Frame, Jenkins, Gregerson, Valdez, Lovick, Stanford, Pollet, Santos, and Stonier)

READ FIRST TIME 01/26/18.

1            AN ACT Relating to discriminatory provisions found in written  
2 instruments related to real property; amending RCW 49.60.227 and  
3 64.38.028; and providing an effective date.

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

5            **Sec. 1.** RCW 49.60.227 and 2006 c 58 s 3 are each amended to read  
6 as follows:

7            (1)(a) If a written instrument contains a provision that is void  
8 by reason of RCW 49.60.224, the owner, occupant, or tenant of the  
9 property which is subject to the provision or the homeowners'  
10 association board may cause the provision to be stricken from the  
11 public records by bringing an action in the superior court in the  
12 county in which the property is located. The action shall be an in  
13 rem, declaratory judgment action whose title shall be the description  
14 of the property. The necessary party to the action shall be the  
15 owner, occupant, or tenant of the property or any portion thereof.  
16 The person bringing the action shall pay a fee set under RCW  
17 36.18.012.

18            (b) If the court finds that any provisions of the written  
19 instrument are void under RCW 49.60.224, it shall enter an order  
20 striking the void provisions from the public records and eliminating

1 the void provisions from the title or lease of the property described  
2 in the complaint.

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

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

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

13 "The referenced original written instrument contains  
14 discriminatory provisions that are void and unenforceable under RCW  
15 49.60.224 and federal law. This document strikes from the referenced  
16 original instrument all provisions that are void and unenforceable  
17 under law."

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

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

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

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

32 **Sec. 2.** RCW 64.38.028 and 2006 c 58 s 2 are each amended to read  
33 as follows:

34 (1) The association, acting through a simple majority vote of its  
35 board, may amend the association's governing documents for the  
36 purpose of removing:

37 (a) Every covenant, condition, or restriction that (~~purports to~~  
38 ~~forbid or restrict the conveyance, encumbrance, occupancy, or lease~~  
39 ~~thereof to individuals of a specified race, creed, color, sex, or~~

1 ~~national origin; families with children status; individuals with any~~  
2 ~~sensory, mental, or physical disability; or individuals who use a~~  
3 ~~trained dog guide or service animal because they are blind or deaf or~~  
4 ~~have a physical disability)) is void by reason of RCW 49.60.224; and~~

5 (b) Every covenant, condition, restriction, or prohibition,  
6 including a right of entry or possibility of reverter, that directly  
7 or indirectly limits the use or occupancy of real property on the  
8 basis of ((~~race, creed, color, sex, national origin; families with~~  
9 ~~children status; the presence of any sensory, mental, or physical~~  
10 ~~disability; or the use of a trained dog guide or service animal by a~~  
11 ~~person with a physical disability or who is blind or deaf)) a  
12 protected class under chapter 49.60 RCW.~~

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

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

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

22 "This amendment strikes from these covenants, conditions,  
23 and restrictions those provisions that are void under RCW  
24 49.60.224. Specifically, this amendment strikes:

25 (a) Those provisions that forbid or restrict use,  
26 occupancy, conveyance, encumbrance, or lease of real property  
27 to individuals ((~~of a specified race, creed, color, sex, or~~  
28 ~~national origin; families with children status; individuals~~  
29 ~~with any sensory, mental, or physical disability; or~~  
30 ~~individuals who use a trained dog guide or service animal~~  
31 ~~because they are blind or deaf or have a physical~~  
32 ~~disability)) on the basis of a protected class under chapter  
33 49.60 RCW; and~~

34 (b) Every covenant, condition, restriction, or  
35 prohibition, including a right of entry or possibility of  
36 reverter, that directly or indirectly limits the use or  
37 occupancy of real property on the basis of ((~~race, creed,~~  
38 ~~color, sex, national origin; families with children status;~~  
39 ~~the presence of any sensory, mental, or physical disability;~~

1 ~~or the use of a trained dog guide or service animal by a~~  
2 ~~person with a physical disability or who is blind or deaf)) a~~  
3 protected class under chapter 49.60 RCW."

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

6 (6) As provided in RCW 49.60.227((7)):

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

11 (b) Any owner of property subject to a written instrument that  
12 contains a provision that is void pursuant to RCW 49.60.224 may  
13 record a restrictive covenant modification as defined in RCW  
14 49.60.227.

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

25 (8) Except as otherwise provided in subsection (2) of this  
26 section, (a) nothing in this section creates a duty on the part of  
27 owners, occupants, tenants, associations, or boards to amend the  
28 governing documents as provided in this section, or to bring an  
29 action as authorized under this section and RCW 49.60.227; and (b) an  
30 owner, occupant, tenant, association, or board is not liable for  
31 failing to amend the governing documents or to pursue an action in  
32 court as authorized under this section and RCW 49.60.227.

33 NEW SECTION. Sec. 3. Section 1 of this act takes effect January  
34 1, 2019.

Passed by the House February 8, 2018.  
Passed by the Senate February 27, 2018.  
Approved by the Governor March 15, 2018.

Filed in Office of Secretary of State March 16, 2018.

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