
HOUSE BILL 2240

State of Washington

68th Legislature

2024 Regular Session

By Representatives Taylor, Timmons, Gregerson, Senn, Chopp, Reed, Cortes, and Macri

Read first time 01/09/24. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to clarifying the process for redacting void
2 covenants from recorded property documents; and amending RCW
3 49.60.227.

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

5 **Sec. 1.** RCW 49.60.227 and 2021 c 256 s 4 are each amended to
6 read 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, or condominium association board may cause the
11 provision to be stricken from the public records by bringing an
12 action in the superior court in the county in which the property is
13 located. The action shall be an in rem, declaratory judgment action
14 whose title shall be the description of the property. The necessary
15 party to the action shall be the owner, occupant, or tenant of the
16 property or any portion thereof, the homeowners' association board,
17 or condominium association board. The ~~((person))~~ party bringing the
18 action shall pay a fee set under RCW 36.18.012.

19 (b) If the court finds that any provisions of the written
20 instrument are void under RCW 49.60.224, it shall enter an order
21 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 (i) ((A)) (A) The party bringing the action shall present to the
4 court a proposed order that includes the specific proposed language
5 of the redaction, unattached from the documents. The proposed order
6 must include a list of each document by recording number and date of
7 recordation and set forth verbatim the void provisions.

8 (B) The party bringing the action shall present a complete copy
9 of any document that would be affected by the proposed order. This
10 copy must be certified by the county auditor or recording official as
11 an official copy of the document recorded in their office. The
12 certified copy shall be ((made an exhibit to the order and the order
13 shall identify each document by recording number and date of
14 recordation and set forth verbatim the void provisions to be struck
15 from such document. The order shall include a certified copy of each
16 document, upon which the court has physically redacted the void
17 provisions)) on eight and one-half by 11 inch paper and attached to
18 the complaint.

19 (C) For all documents required to be presented by (b)(i)(B) of
20 this subsection, the party shall also mark their proposed redactions
21 on a separate copy of the documents certified by the county auditor.
22 Such a copy shall be presented to the court in the original recorded
23 size but not filed in the case file. This document will become the
24 redacted property record or corrected document.

25 (D) If the court approves the redactions as proposed or after
26 edits, the court shall sign the order. If the court approves the
27 redactions, the court will initial the proposed redacted language on
28 the documents, and may require modification prior to initialing. Once
29 approved, the corrected documents with the court's initials must be
30 returned to the party bringing the action and the order filed with
31 the county clerk.

32 (ii) The ((person)) party bringing the action ((may)) shall
33 obtain and deliver a certified copy of the order to the office of the
34 county auditor or, in charter counties, the county official charged
35 with the responsibility for recording instruments in the county
36 records, in the county where the property is located. The party shall
37 also submit to the auditor the redacted property documents that
38 contain the court's initials. The redacted language identified in the
39 court order and the redacted language on the property documents must

1 match in order for the language changes to be valid. The court order
2 shall not be recorded.

3 (iii) (~~The auditor shall record the documents prepared by the~~
4 ~~court~~) If the redacted language identified in the court order and
5 the redacted language on the documents match, the auditor or
6 recording official shall record the redacted property records that
7 contain the court's initials. An image of each document so corrected
8 shall be placed in the public records. Each corrected document shall
9 contain the following information on the first page or a cover page
10 prepared pursuant to RCW 65.04.047: The auditor's file number or book
11 and page of the original document, a notation that the original
12 document was corrected pursuant to this section, the cause number of
13 the court action, and the date the order was entered.

14 (iv) After the certified court order and initialed redacted
15 property records have been submitted to the county auditor, the party
16 bringing the action must file with the county clerk an eight and one-
17 half by 11 inch paper copy of each document containing redactions
18 with the court's initials and proof of recording with the auditor or
19 the recording official.

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

25 (~~(v)~~) (vi) The original document or image and subsequent
26 records of such actions shall be preserved for historical or archival
27 purposes. The documents and records may be separately maintained in
28 the county's records and, at the auditor's or official's discretion,
29 the original document or image may also be transferred to the
30 secretary of state archives division (~~to be preserved for historical~~
31 ~~or archival purposes~~)).

32 (c) For the purposes of this subsection (1), "document" means the
33 title or lease containing the void provisions.

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

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

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

4 "The referenced original written instrument contains
5 discriminatory provisions that are void and unenforceable under RCW
6 49.60.224 and federal law. This document strikes from the referenced
7 original instrument all provisions that are void and unenforceable
8 under law."

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

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

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

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

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