

## Chapter 476

**(House Bill 182)**

AN ACT concerning

**Real Property – Unlawfully Restrictive Covenants – Modification by Counties or Municipalities**

FOR the purpose of authorizing a county or municipality to execute and record a restrictive covenant modification to an unlawfully restrictive covenant for a property within the boundaries of the county or municipality subject to a certain notice requirement; providing that persons with an ownership interest in property that is subject to an unlawfully restrictive covenant may decline action by a county or municipality to execute and record a restrictive covenant modification; and generally relating to unlawfully restrictive covenants.

BY repealing and reenacting, with amendments,  
 Article – Real Property  
 Section 3–112  
 Annotated Code of Maryland  
 (2015 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 That the Laws of Maryland read as follows:

**Article – Real Property**

3–112.

(a) In this section, “unlawfully restrictive covenant” means any recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin.

(b) This section does not apply to an unlawfully restrictive covenant that is part of a declaration, uniform general scheme, or plan of development of a homeowners association, as defined in § 11B–101 of this article.

(c) **(1)** A person may execute and record a restrictive covenant modification to an unlawfully restrictive covenant in accordance with this section if the person:

**[(1)] (I)** Holds an ownership interest in property that the person believes is subject to the unlawfully restrictive covenant; or

**[(2)] (II)** Is a nonprofit entity that is required to enforce within a defined residential neighborhood:

[(i)] 1. Covenants that limit architectural alterations, renovations, landscaping elements, or other modifications to residential lots in the neighborhood; and

[(ii)] 2. The unlawfully restrictive covenant.

**(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A COUNTY OR MUNICIPALITY MAY EXECUTE AND RECORD A RESTRICTIVE COVENANT MODIFICATION TO AN UNLAWFULLY RESTRICTIVE COVENANT IN ACCORDANCE WITH THIS SECTION IF:**

**1. THE PROPERTY THAT THE COUNTY OR MUNICIPALITY BELIEVES IS SUBJECT TO AN UNLAWFULLY RESTRICTIVE COVENANT IS WITHIN THE BOUNDARIES OF THE COUNTY OR MUNICIPALITY; AND**

**2. AT LEAST 30 DAYS BEFORE EXECUTING AND RECORDING THE RESTRICTIVE COVENANT MODIFICATION, THE COUNTY OR MUNICIPALITY PROVIDES WRITTEN NOTICE IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS PARAGRAPH OF THE COUNTY’S OR MUNICIPALITY’S INTENT TO EXECUTE AND RECORD THE RESTRICTIVE COVENANT MODIFICATION TO ALL PERSONS WITH AN OWNERSHIP INTEREST IN THE PROPERTY.**

**(II) A PERSON WITH AN OWNERSHIP INTEREST IN THE PROPERTY MAY DECLINE TO HAVE THE RESTRICTIVE COVENANT MODIFICATION EXECUTED AND RECORDED BY THE COUNTY OR MUNICIPALITY BY NOTIFYING THE COUNTY OR MUNICIPALITY WITHIN 30 DAYS AFTER THE DATE OF NOTICE.**

**(III) NOTICE UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH SHALL:**

**1. BE SENT BY FIRST-CLASS MAIL; AND**

**2. PROVIDE INFORMATION ON HOW A PERSON WITH AN OWNERSHIP INTEREST IN THE PROPERTY MAY DECLINE TO HAVE THE RESTRICTIVE COVENANT MODIFICATION EXECUTED AND RECORDED BY THE COUNTY OR MUNICIPALITY.**

(d) (1) A restrictive covenant modification shall:

(i) Consist of a complete copy of the original instrument containing the unlawfully restrictive covenant with the language of the unlawfully restrictive covenant stricken; and

(ii) Be accompanied by a complete restrictive covenant modification intake sheet, on the form that the Administrative Office of the Courts provides.

(2) The restrictive covenant modification intake sheet described in paragraph (1)(ii) of this subsection shall:

(i) 1. Be signed by the record owner of the property; or

2. In the case of a nonprofit entity, be accompanied by a statement that a majority of the governing body of the nonprofit entity has agreed to the restrictive covenant modification;

(ii) Reference the book and page number or other place where the original instrument containing the unlawfully restrictive covenant is recorded; and

(iii) Include any other information that the Administrative Office of the Courts considers necessary in carrying out the requirements of this section.

(e) (1) On receipt of a restrictive covenant modification, the clerk of the circuit court shall submit the restrictive covenant modification together with a copy of the original instrument referenced in the restrictive covenant modification to the county attorney.

(2) The county attorney shall:

(i) Review the restrictive covenant modification and the copy of the original instrument to determine:

1. Whether the original instrument contains an unlawfully restrictive covenant; and

2. Whether the restrictive covenant modification correctly strikes through only the language of the unlawfully restrictive covenant; and

(ii) On completion of the review, return the restrictive covenant modification and copy of the original to the clerk of the circuit court together with the county attorney's determination.

(3) The clerk of the circuit court may not record a restrictive covenant modification unless the county attorney determines that the modification is appropriate in accordance with paragraph (2) of this subsection.

(f) A restrictive covenant modification shall be indexed in the same manner as the original instrument.

(g) (1) Subject to all covenants, conditions, and restrictions that were recorded after the recording of the original instrument, the restrictions contained in the restrictive

covenant modification, once recorded, are the only restrictions based on the original instrument that apply to the property.

(2) The effective date of the terms and conditions contained in the restrictive covenant modification shall be the same as the effective date of the original instrument.

(h) If a person causes to be recorded a restrictive covenant modification that contains modifications not authorized under this section:

(1) The clerk of the circuit court may not incur any liability for recording the restrictive covenant modification;

(2) The county may not incur any liability as a result of a determination rendered by the county attorney under subsection (e) of this section; and

(3) Any liability that results from the unauthorized recordation shall be the sole responsibility of the person that executed the restrictive covenant modification.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2023.

**Approved by the Governor, May 8, 2023.**

West's Annotated Code of Maryland  
Real Property (Refs & Annos)  
Title 11b. Maryland Homeowners Association Act (Refs & Annos)

MD Code, Real Property, § 11B-101

§ 11B-101. Definitions

Currentness

**In general**

(a) In this title the following words have the meanings indicated, unless the context requires otherwise.

**Common areas**

(b) “Common areas” means property which is owned or leased by a homeowners association.

**Declarant**

(c) “Declarant” means any person who subjects property to a declaration.

**Declaration**

(d)(1) “Declaration” means an instrument, however denominated, recorded among the land records of the county in which the property of the declarant is located, that creates the authority for a homeowners association to impose on lots, or on the owners or occupants of lots, or on another homeowners association, condominium, or cooperative housing corporation any mandatory fee in connection with the provision of services or otherwise for the benefit of some or all of the lots, the owners or occupants of lots, or the common areas.

(2) “Declaration” includes any amendment or supplement to the instruments described in paragraph (1) of this subsection.

(3) “Declaration” does not include a private right-of-way or similar agreement unless it requires a mandatory fee payable annually or at more frequent intervals.

### **Depository or homeowners association depository**

(e) “Depository” or “homeowners association depository” means the document file created by the clerk of the court of each county and the City of Baltimore where a homeowners association may periodically deposit information as required by this title.

### **Development**

(f)(1) “Development” means property subject to a declaration.

(2) “Development” includes property comprising a condominium or cooperative housing corporation to the extent that the property is part of a development.

(3) “Development” does not include a cooperative housing corporation or a condominium.

### **Electronic transmission**

(g) “Electronic transmission” means any form of communication, not directly involving the physical transmission of paper, that creates a record that:

(1) May be retained, retrieved, and reviewed by a recipient of the communication; and

(2) May be reproduced directly in paper form by a recipient through an automated process.

### **Governing body**

(h) “Governing body” means the homeowners association, board of directors, or other entity established to govern the development.

### **Homeowners association**

(i)(1) “Homeowners association” means a person having the authority to enforce the provisions of a declaration.

(2) “Homeowners association” includes an incorporated or unincorporated association.

### **Lot**

(j)(1) “Lot” means any plot or parcel of land on which a dwelling is located or will be located within a development.

(2) “Lot” includes a unit within a condominium or cooperative housing corporation if the condominium or cooperative housing corporation is part of a development.

### **Primary development**

(k) “Primary development” means a development such that the purchaser of a lot will pay fees directly to its homeowners association.

### **Recorded covenants and restrictions**

(l) “Recorded covenants and restrictions” means any instrument of writing which is recorded in the land records of the jurisdiction within which a lot is located, and which instrument governs or otherwise legally restricts the use of such lot.

### **Related development**

(m) “Related development” means a development such that the purchaser of a lot will pay fees to the homeowners association of such development through the homeowners association of a primary development or another development.

### **Unaffiliated declarant**

(n) “Unaffiliated declarant” means a person who is not affiliated with the vendor of a lot but who has subjected such property to a declaration required to be disclosed by this title.

### **Credits**

Added by Acts 1987, c. 321, § 1, eff. July 1, 1987. Amended by Acts 1988, c. 82, § 1, eff. April 12, 1988; Acts 1989, c. 491; Acts 1989, c. 492; Acts 1998, c. 440, § 1, eff. Oct. 1, 1998; Acts 1998, c. 564, § 1, eff. Oct. 1, 1998; Acts 2004, c. 286, § 1, eff. Oct. 1, 2004.

MD Code, Real Property, § 11B-101, MD REAL PROP § 11B-101

Current through legislation effective through May 9, 2024, from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

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West's Annotated Code of Maryland  
Real Property (Refs & Annos)  
Title 11b. Maryland Homeowners Association Act (Refs & Annos)

MD Code, Real Property, § 11B-113.3

§ 11B-113.3. Recorded covenants and restrictions  
relating to race, religious belief, or national origin

Effective: October 1, 2020

[Currentness](#)

**Application of section**

(a) This section applies to any recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin, including a covenant or restriction that is part of a uniform general scheme or plan of development.

**Homeowners association governing body to delete recorded covenant restrictions**

(b)(1) The governing body of a homeowners association shall delete any recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin from the common area deeds or other declarations of property in the development.

(2) Notwithstanding the provisions of a governing document, the governing body of a homeowners association may delete a recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin from the common area deeds or other declarations of property in the development without approval of the lot owners.

(3) The governing body of the homeowners association shall record with the clerk of the court in the jurisdiction where the development is located an amendment to the common area deeds or other declarations that include the recorded covenant or restriction that provides for the deletion of the recorded covenant or restriction from the common area deeds or declarations of the property in the development.

### **Lot owner may request deletion of recorded covenant or restriction**

(c) Beginning on October 1, 2019, within 180 days after receiving a written request from a lot owner, the governing body of a homeowners association shall delete a recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin from the common area deeds or other declarations of property in the development, in accordance with this section.

#### **Credits**

Added by Acts 2004, c. 478, § 1, eff. Oct. 1, 2004. Amended by Acts 2018, c. 636, § 1, eff. Oct. 1, 2018; Acts 2020, c. 421, § 1, eff. Oct. 1, 2020.

MD Code, Real Property, § 11B-113.3, MD REAL PROP § 11B-113.3

Current through legislation effective through May 9, 2024, from the 2024 Regular Session of the General Assembly. Some statute sections may be more current, see credits for details.

**Recording Requested By or Contact Person**

Return to Contact Person

Hold for Pickup

Return Address Provided

\_\_\_\_\_  
Name

\_\_\_\_\_  
Firm

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

Space Reserved for Circuit Court Clerk Recording Validation

**STATE OF MARYLAND RESTRICTIVE COVENANT MODIFICATION INTAKE SHEET  
(Real Property § 3-112)**

Baltimore City     County: \_\_\_\_\_

\_\_\_\_\_ hold(s) an ownership interest in the real property at  
\_\_\_\_\_ Record Owner(s) of Property

\_\_\_\_\_ Location / Address of Property

which is covered by the recorded document described below. The attached complete copy of the original instrument contains an unlawfully restrictive covenant based on race, religious belief, or national origin. The language of the unlawfully restrictive covenant is stricken in the document.

This document is being recorded to eliminate the restrictions in the unlawfully restrictive covenant on page(s) \_\_\_\_\_ of the document and recorded on \_\_\_\_\_ at book \_\_\_\_\_ and page \_\_\_\_\_, or as instrument number \_\_\_\_\_ of the official records of \_\_\_\_\_ City/County

**INDEXING INSTRUCTIONS:** Index this Restrictive Covenant Modification in the same manner in which the attached original instrument was indexed.

The effective date of the terms and conditions of this modification document shall be the same as the effective date of the original instrument referenced above.

**SIGNATURES:**

**THIS DOCUMENT IS BEING RECORDED BY THE UNDERSIGNED RECORD OWNER(S) OF THE ABOVE PROPERTY:**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Record Owner of the Property

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Record Owner of the Property

\_\_\_\_\_  
Printed Name

**OR**

**THIS DOCUMENT IS BEING RECORDED BY A NON-PROFIT ENTITY CHARGED WITH ENFORCEMENT OF THE ABOVE REFERENCED RESTRICTIVE COVENANTS:**

The undersigned certifies that a majority of the governing body of \_\_\_\_\_, a non-profit entity charged with enforcement of the referenced restrictive covenants, has agreed to this restrictive covenant modification.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Officer/Agent of Non-Profit Entity

\_\_\_\_\_  
Title of Officer/Agent of Non-Profit Entity

\_\_\_\_\_  
Printed Name

**OR**

**THIS DOCUMENT IS BEING RECORDED BY A COUNTY OR MUNICIPALITY AND:**

- The property is within the county/municipality of \_\_\_\_\_; and
- 30 days prior to executing and recording the restrictive covenant modification, the county/municipality provided written notice of intent to execute and record the restrictive covenant modification, by first class mail, to all persons with an ownership interest in the property. This notice contained the information required by Real Property, § 3-112 (c)(2)(iii).

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Officer/Agent of County/Municipality

\_\_\_\_\_  
Title of Officer/Agent of County/Municipality

\_\_\_\_\_  
Printed Name

**COUNTY / CITY ATTORNEY RESTRICTIVE COVENANT MODIFICATION DETERMINATION**

I have determined after a review of the restrictive covenant modification and the copy of the original instrument:

1. The original instrument  does  does not contain an unlawfully restrictive covenant; and
2. The restrictive covenant modification  correctly  incorrectly strikes through only the language of the unlawfully restrictive covenant.  
Modification  is  is not appropriate.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of County / City Attorney

\_\_\_\_\_  
Attorney Number

\_\_\_\_\_  
Printed Name