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HOUSE BILL 2240

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State of Washington

68th Legislature

2024 Regular Session

By Representatives Taylor and Timmons

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 (~~(( $\oplus$ ))~~), 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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