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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 51

01/14/2019 Authored by Davnie, Lee, Wagenius, Loeffler, Hornstein and others
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division
01/24/2019 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to real property; providing a statutory form for making declarations about
1.3 certain restrictive covenants that are prohibited under state and federal law;
1.4 amending Minnesota Statutes 2018, section 507.18, subdivisions 1, 2, 3, by adding
1.5 subdivisions.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2018, section 507.18, subdivision 1, is amended to read:

1.8 Subdivision 1. Religious faith, creed, national origin, race, color. No written instrument
1.9 hereafter made, relating to or affecting real estate, shall contain any provision against
1.10 conveying, mortgaging, encumbering, or leasing any real estate to any person of a specified
1.11 religious faith, creed, national origin, race, or color, nor shall any such written instrument
1.12 contain any provision of any kind or character discriminating against any class of persons
1.13 because of their religious faith, creed, national origin, race, or color. In every such provision
1.14 any form of expression or description which is commonly understood as designating or
1.15 describing a religious faith, creed, national origin, race, or color shall have the same effect
1.16 as if its ordinary name were used therein.

1.17 Sec. 2. Minnesota Statutes 2018, section 507.18, subdivision 2, is amended to read:

1.18 Subd. 2. Restriction only is void. Every provision referred to in subdivision 1 shall be
1.19 void, regardless of the year the written instrument was executed, but the instrument shall
1.20 have full force in all other respects and shall be construed as if no such provision were
1.21 contained therein.

2.1 Sec. 3. Minnesota Statutes 2018, section 507.18, subdivision 3, is amended to read:

2.2 Subd. 3. **Words constructively defined.** As used in this section the phrase "written
2.3 instruments relating to or affecting real estate," embraces every writing relating to or affecting
2.4 any right, title, or interest in real estate, and includes, among other things, plats and wills;
2.5 and the word "provision" embraces all clauses, stipulations, restrictions, covenants, and
2.6 conditions of the kind or character referred to in subdivision 1. As used in this section, the
2.7 term "protected class" means any class of persons identified by their race, color, creed,
2.8 national origin, or religious beliefs.

2.9 Sec. 4. Minnesota Statutes 2018, section 507.18, is amended by adding a subdivision to
2.10 read:

2.11 Subd. 5. **Discharge of restrictive covenants related to protected classes.** The owner
2.12 of any interest in real property may record the statutory form provided in subdivision 6 in
2.13 the office of the county recorder of any county where the real property is located to discharge
2.14 and release a restrictive covenant related to a protected class permanently from the title.
2.15 This subdivision does not apply to real property registered under chapters 508 and 508A.
2.16 The discharge of the restrictive covenant is valid and enforceable under the law of Minnesota
2.17 when the statutory form provided in subdivision 6 is properly recorded, but the instrument
2.18 containing such restrictive covenants shall have full force in all other respects and shall be
2.19 construed as if no such restrictive covenant were contained therein. A restrictive covenant
2.20 affecting a protected class is void regardless of whether a statutory form as provided for in
2.21 this section has been recorded in the office of the county recorder in the county where the
2.22 real property affected by the restrictive covenant is located.

2.23 Sec. 5. Minnesota Statutes 2018, section 507.18, is amended by adding a subdivision to
2.24 read:

2.25 Subd. 6. **Filing; recording.** (a) The county recorder must accept the statutory form
2.26 provided in this subdivision for recording when the form:

2.27 (1) has been executed before a notary;

2.28 (2) contains the legal description of the real property affected by the restrictive covenant
2.29 related to a protected class;

2.30 (3) contains the date of recording of the instrument containing the restrictive covenant,
2.31 and the volume and page number or document number of the instrument; and

3.1 (4) complies with all other recording requirements, and applicable recording fees have
3.2 been paid.

3.3 (b) The commissioner of commerce must provide electronic copies of the statutory form
3.4 in this subdivision to the public free of cost.

3.5 (c) The recording of this form does not alter or affect the duration or expiration of
3.6 covenants, conditions, or restrictions under section 500.20 and may not be used to extend
3.7 the effect of a covenant, condition, or restriction.

3.8 (d) The statutory form that follows may be used to discharge restrictive covenants on
3.9 property that limit the ownership, occupancy, use, or financing based on protected class:

3.10 DISCHARGE OF RESTRICTIVE COVENANT AFFECTING PROTECTED CLASSES

3.11 Pursuant to Minnesota Statutes, section 507.18, any restrictive covenant affecting a
3.12 protected class, including covenants which were placed on the real property with the intent
3.13 of restricting the use, occupancy, ownership, or financing because of a person's race, color,
3.14 creed, national origin, or religious beliefs, is discharged and released from the land described
3.15 herein.

3.16 State of Minnesota, County of

3.17 I/we,, having an ownership
3.18 or other interest in all or part of the real property described herein, solemnly swear that the
3.19 contents of this form are true to the best of my/our knowledge, except as to those matters
3.20 stated on information and belief, and that as to those matters I/we believe them to be true.

3.21 Name and Address of Owner(s)

3.22 The real property owned by owner(s) is located in County,
3.23 Minnesota, and is legally described as follows:

3.24 OWNER(s),, swears and affirms
3.25 that Owner(s) is/are 18 years of age or older and is/are not under any legal incapacity and
3.26 that the information provided in this form is true and correct based on the information
3.27 available and based on reasonable information and belief:

3.28 (1) a restrictive covenant which had the intent to restrict the use, occupancy, ownership,
3.29 or financing of this property based on a protected class, including race, color, creed, national
3.30 origin, or religion, existed at one time related to the property described in this form;

4.1 (2) the restrictive covenant is contained in an instrument dated, and
 4.2 recorded as Document Number (or in Book of, Page.....)
 4.3 in the Office of the County Recorder of, Minnesota;

4.4 (3) restrictive covenants relating to or affecting protected classes are unenforceable and
 4.5 void pursuant to Minnesota Statutes, sections 507.18 and 363A.09, the United States
 4.6 Constitution, and the Minnesota Constitution;

4.7 (4) Minnesota Statutes, section 507.18, provides for the discharge of a restrictive covenant
 4.8 of the nature described herein through the use of this statutory form to permanently discharge
 4.9 such covenants from the land described herein and release the current and future landowner(s)
 4.10 from any such restrictive covenant related to or affecting protected classes;

4.11 (5) the instrument containing such restrictive covenants shall have full force in all other
 4.12 respects and shall be construed as if no such restrictive covenant was contained therein; and

4.13 (6) the filing of this form does not alter or change the duration or expiration of covenants,
 4.14 conditions, or restrictions under Minnesota Statutes, section 500.20.

4.15 The affiant(s) know(s) the matters herein stated are true and make(s) this affidavit for
 4.16 the purpose of documenting the discharge of the illegal and unenforceable restrictive
 4.17 covenants affecting protected classes.

4.18
 4.19 Affiant (Owner(s) Signature)

4.20 Signed and sworn before me on
 4.21 (Date), by
 4.22 (Affiant/Owner)

4.23
 4.24 Signature of Notary

4.25 Stamp
 4.26 My commission expires