

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0587.02 Yelana Love x2295

SENATE BILL 24-145

SENATE SPONSORSHIP

Gardner,

HOUSE SPONSORSHIP

Snyder,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING THE ENACTMENT OF THE "UNIFORM UNLAWFUL
102 RESTRICTIONS IN LAND RECORDS ACT".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Colorado Commission on Uniform State Laws. Current law declares a restriction in a land record unlawful if the restriction is based on race, color, religion, national origin, sex, familial status, disability, or other personal characteristics.

The bill enacts the "Uniform Unlawful Restrictions in Land Records Act (2023)" (act), as drafted by the Uniform Law Commission,

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

which establishes a process for a person to remove these unlawful restrictions from a title or other document related to real property.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 36.5 to
3 title 38 as follows:

4 **ARTICLE 36.5**

5 **Uniform Unlawful Restrictions in Land Records Act**

6 **38-36.5-101. Title.** THIS ARTICLE 36.5 MAY BE CITED AS THE
7 "UNIFORM UNLAWFUL RESTRICTIONS IN LAND RECORDS ACT".

8 **38-36.5-102. Definitions.** AS USED IN THIS ARTICLE 36.5:

9 (1) "AMENDMENT" MEANS A DOCUMENT THAT REMOVES AN
10 UNLAWFUL RESTRICTION.

11 (2) "ASSOCIATION OF OWNERS" HAS THE SAME MEANING AS
12 "ASSOCIATION" AS SET FORTH IN SECTION 38-33.3-103 (3).

13 (3) "COMMON INTEREST COMMUNITY" HAS THE SAME MEANING AS
14 SET FORTH IN SECTION 38-33.3-103 (8).

15 (4) "DOCUMENT" MEANS A RECORD RECORDED OR ELIGIBLE TO BE
16 RECORDED IN LAND RECORDS.

17 (5) "GOVERNING INSTRUMENT" HAS THE SAME MEANING AS
18 "DECLARATION", AS DEFINED IN SECTION 38-33.3-103 (13).

19 (6) "GRANTEE INDEX" MEANS THE GRANTEE INDEX MAINTAINED
20 IN A RECORDER'S OFFICE PURSUANT TO SECTION 30-10-408.

21 (7) "GRANTOR INDEX" MEANS THE GRANTOR INDEX MAINTAINED
22 IN A RECORDER'S OFFICE PURSUANT TO SECTION 30-10-408.

23 (8) "LAND RECORDS" MEANS THE REAL ESTATE RECORDS IN THE
24 OFFICE OF THE RECORDER PURSUANT TO SECTION 30-10-406 (1).

25 (9) "OWNER" MEANS A PERSON THAT HAS A FEE INTEREST IN REAL

1 PROPERTY.

2 (10) "PERSON" MEANS AN INDIVIDUAL, BUSINESS TRUST, ESTATE,
3 TRUST, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY,
4 ASSOCIATION, JOINT VENTURE, PUBLIC CORPORATION OR OTHER BUSINESS
5 OR NONPROFIT ENTITY, GOVERNMENT OR GOVERNMENTAL SUBDIVISION,
6 AGENCY, OR INSTRUMENTALITY, OR OTHER LEGAL ENTITY.

7 (11) "RECORD", USED AS A NOUN, MEANS INFORMATION:

8 (a) INSCRIBED ON A TANGIBLE MEDIUM; OR

9 (b) STORED IN AN ELECTRONIC OR OTHER MEDIUM AND
10 RETRIEVABLE IN PERCEIVABLE FORM.

11 (12) "RECORDER" MEANS A COUNTY CLERK AND RECORDER.

12 (13) "REMOVE" MEANS ELIMINATE ANY APPARENT OR
13 PURPORTEDLY CONTINUING EFFECT ON TITLE TO REAL PROPERTY.

14 (14) "UNLAWFUL RESTRICTION" MEANS A PROHIBITION,
15 RESTRICTION, COVENANT, OR CONDITION IN A DOCUMENT THAT PURPORTS
16 TO INTERFERE WITH OR RESTRICT THE TRANSFER, USE, OR OCCUPANCY OF
17 REAL PROPERTY:

18 (a) ON THE BASIS OF RACE, COLOR, RELIGION, NATIONAL ORIGIN,
19 SEX, FAMILIAL STATUS, DISABILITY, OR OTHER PERSONAL
20 CHARACTERISTICS; AND

21 (b) IN VIOLATION OF OTHER LAW OF THIS STATE, INCLUDING
22 SECTION 24-34-502, REGARDING UNFAIR OR DISCRIMINATORY HOUSING
23 PRACTICES, OR FEDERAL LAW.

24 **38-36.5-103. Amendment by owner.** EXCEPT WITH RESPECT TO
25 PROPERTY TO WHICH SECTION 38-36.5-104 APPLIES, AN OWNER OF REAL
26 PROPERTY SUBJECT TO AN UNLAWFUL RESTRICTION MAY SUBMIT TO THE
27 RECORDER FOR RECORDATION IN THE LAND RECORDS AN AMENDMENT TO

1 REMOVE THE UNLAWFUL RESTRICTION, BUT ONLY AS TO THE OWNER'S
2 PROPERTY.

3 **38-36.5-104. Amendment by association of owners.** (1) THE
4 GOVERNING BODY OF AN ASSOCIATION OF OWNERS IDENTIFIED IN A
5 GOVERNING INSTRUMENT MAY, WITHOUT A VOTE OF THE MEMBERS OF THE
6 ASSOCIATION, AMEND THE GOVERNING INSTRUMENT TO REMOVE AN
7 UNLAWFUL RESTRICTION.

8 (2) A MEMBER OF AN ASSOCIATION OF OWNERS MAY REQUEST, IN
9 A RECORD THAT SUFFICIENTLY IDENTIFIES AN UNLAWFUL RESTRICTION IN
10 THE GOVERNING INSTRUMENT, THAT THE GOVERNING BODY EXERCISE ITS
11 AUTHORITY UNDER SUBSECTION (1) OF THIS SECTION. NO LATER THAN
12 NINETY DAYS AFTER THE GOVERNING BODY RECEIVES THE REQUEST, THE
13 GOVERNING BODY SHALL DETERMINE REASONABLY AND IN GOOD FAITH
14 WHETHER THE GOVERNING INSTRUMENT INCLUDES THE UNLAWFUL
15 RESTRICTION. IF THE GOVERNING BODY DETERMINES THE GOVERNING
16 INSTRUMENT INCLUDES THE UNLAWFUL RESTRICTION, THE GOVERNING
17 BODY, NO LATER THAN NINETY DAYS AFTER THE DETERMINATION, SHALL
18 AMEND THE GOVERNING INSTRUMENT TO REMOVE THE UNLAWFUL
19 RESTRICTION.

20 (3) AN OFFICER OF THE ASSOCIATION OF OWNERS DESIGNATED BY
21 THE ASSOCIATION OF OWNERS OR, IN THE ABSENCE OF DESIGNATION, THE
22 PRESIDENT OF THE ASSOCIATION OF OWNERS, ACTING ON BEHALF OF THE
23 ASSOCIATION OF OWNERS, SHALL PREPARE, EXECUTE, RECORD, AND
24 CERTIFY AN AMENDMENT ADOPTED PURSUANT TO THIS SECTION.

25 (4) AN AMENDMENT UNDER THIS SECTION IS EFFECTIVE
26 NOTWITHSTANDING ANY PROVISION OF THE GOVERNING INSTRUMENT OR
27 OTHER LAW OF THIS STATE THAT REQUIRES A VOTE OF THE MEMBERS OF

1 THE ASSOCIATION OF OWNERS TO AMEND THE GOVERNING INSTRUMENT.

2 **38-36.5-105. Requirements and limitations of amendment.**

3 (1) AN AMENDMENT UNDER THIS ARTICLE 36.5 MUST IDENTIFY, FOR AN
4 AMENDMENT BY AN OWNER PURSUANT TO SECTION 38-36.5-103, THE
5 OWNER, AND FOR AN AMENDMENT BY AN ASSOCIATION OF OWNERS
6 PURSUANT TO SECTION 38-36.5-104, THE NAME OF THE COMMON INTEREST
7 COMMUNITY AND THE ASSOCIATION. ALL AMENDMENTS MUST INCLUDE A
8 DESCRIPTION OF THE REAL PROPERTY AFFECTED AND A REFERENCE TO THE
9 DOCUMENT RECORDED IN THE LAND RECORDS CONTAINING THE UNLAWFUL
10 RESTRICTION. ALL AMENDMENTS MUST INCLUDE A CONSPICUOUS
11 STATEMENT IN SUBSTANTIALLY THE FOLLOWING FORM: "THIS AMENDMENT
12 REMOVES FROM THIS DEED OR OTHER DOCUMENT AFFECTING TITLE TO
13 REAL PROPERTY AN UNLAWFUL RESTRICTION AS DEFINED UNDER THE
14 UNIFORM UNLAWFUL RESTRICTIONS IN LAND RECORDS ACT. THIS
15 AMENDMENT DOES NOT AFFECT THE VALIDITY OR ENFORCEABILITY OF A
16 RESTRICTION THAT IS NOT AN UNLAWFUL RESTRICTION."

17 (2) (a) THE AMENDMENT MUST BE EXECUTED AND
18 ACKNOWLEDGED IN THE MANNER REQUIRED FOR RECORDATION OF A
19 DOCUMENT IN THE LAND RECORDS. THE AMENDMENT MUST BE RECORDED
20 IN THE LAND RECORDS OF EACH COUNTY IN WHICH THE DOCUMENT
21 CONTAINING THE UNLAWFUL RESTRICTION IS RECORDED.

22 (b) FOR AN AMENDMENT BY AN OWNER PURSUANT TO SECTION
23 38-36.5-103, THE RECORDER SHALL INDEX THE AMENDMENT IN THE
24 GRANTOR AND GRANTEE INDEX IN THE NAME OF THE RECORD OWNER. FOR
25 AN AMENDMENT BY AN ASSOCIATION OF OWNERS PURSUANT TO SECTION
26 38-36.5-104, THE RECORDER SHALL INDEX THE AMENDMENT IN THE
27 GRANTEE INDEX IN THE NAME OF THE COMMON INTEREST COMMUNITY

1 CREATED PURSUANT TO THE GOVERNING INSTRUMENT AND IN THE NAME
2 OF THE ASSOCIATION OF OWNERS AND IN THE GRANTOR INDEX IN THE
3 NAME OF EACH PERSON EXECUTING THE AMENDMENT.

4 (3) THE AMENDMENT DOES NOT AFFECT THE VALIDITY OR
5 ENFORCEABILITY OF ANY RESTRICTION THAT IS NOT AN UNLAWFUL
6 RESTRICTION.

7 (4) THE AMENDMENT OR A FUTURE CONVEYANCE OF THE
8 AFFECTED REAL PROPERTY IS NOT A REPUBLICATION OF A RESTRICTION
9 THAT OTHERWISE WOULD EXPIRE BY PASSAGE OF TIME UNDER OTHER LAW
10 OF THIS STATE.

11 **38-36.5-106. Form for amendment.** (1) AN OWNER MAKING AN
12 AMENDMENT PURSUANT TO THIS ARTICLE 36.5 MUST USE A FORM
13 SUBSTANTIALLY EQUIVALENT TO THE FOLLOWING FORM:

14 AMENDMENT BY OWNER TO REMOVE AN UNLAWFUL RESTRICTION
15 THIS AMENDMENT IS RECORDED UNDER THE STATE'S UNIFORM UNLAWFUL
16 RESTRICTIONS IN LAND RECORDS ACT, ARTICLE 36.5 OF TITLE 38,
17 COLORADO REVISED STATUTES (THE ACT), BY AN OWNER OF AN INTEREST
18 IN REAL PROPERTY SUBJECT TO AN UNLAWFUL RESTRICTION AS DEFINED
19 UNDER THE ACT.

20 (1) NAME OF OWNER: _____

21 (2) OWNER'S PROPERTY THAT IS SUBJECT TO THE UNLAWFUL
22 RESTRICTION IS DESCRIBED AS FOLLOWS:

23 ADDRESS: _____

24 LEGAL DESCRIPTION: _____

25 (3) THIS AMENDMENT AMENDS THE FOLLOWING DOCUMENT:

26 TITLE OF DOCUMENT BEING AMENDED: _____

27 RECORDING DATE OF DOCUMENT BEING AMENDED:

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RECORDING INFORMATION (BOOK/PAGE OR INSTRUMENT
NUMBER):_____

THIS AMENDMENT REMOVES FROM THE DOCUMENT DESCRIBED IN
PARAGRAPH (3) ALL UNLAWFUL RESTRICTIONS AS DEFINED UNDER THE
ACT. REMOVAL OF AN UNLAWFUL RESTRICTION THROUGH THIS
AMENDMENT DOES NOT AFFECT THE VALIDITY AND ENFORCEABILITY OF
ANY OTHER RESTRICTION THAT IS NOT AN UNLAWFUL RESTRICTION AS
DEFINED UNDER THE ACT AT THE TIME OF FILING THIS AMENDMENT. THIS
AMENDMENT IS NOT EFFECTIVE IF THE PROPERTY IS SUBJECT TO A
GOVERNING INSTRUMENT AS DEFINED UNDER THE ACT.

OWNER'S SIGNATURE:_____

DATE:_____

NOTARY ACKNOWLEDGMENT:_____

WITNESSES:_____

(2) AN ASSOCIATION OF OWNERS MAKING AN AMENDMENT
PURSUANT TO THIS ARTICLE 36.5 MUST USE A FORM SUBSTANTIALLY
EQUIVALENT TO THE FOLLOWING FORM:

AMENDMENT BY ASSOCIATION OF OWNERS TO REMOVE
AN UNLAWFUL RESTRICTION

THIS AMENDMENT IS RECORDED UNDER THE STATE'S UNIFORM UNLAWFUL
RESTRICTIONS IN LAND RECORDS ACT, ARTICLE 36.5 OF TITLE 38,
COLORADO REVISED STATUTES (THE ACT), BY AN ASSOCIATION OF
OWNERS IDENTIFIED IN A GOVERNING INSTRUMENT THAT CONTAINS AN
UNLAWFUL RESTRICTION AS DEFINED UNDER THE ACT.

(1) NAME OF ASSOCIATION:_____

(2) PROPERTY ENCUMBERED BY A GOVERNING INSTRUMENT

1 CONTAINING THE UNLAWFUL RESTRICTION IS DESCRIBED AS
2 FOLLOWS:

3 LEGAL DESCRIPTION: _____

4 (3) THIS AMENDMENT AMENDS THE FOLLOWING DESCRIBED
5 DOCUMENT:

6 TITLE OF DOCUMENT BEING AMENDED: _____

7 RECORDING DATE OF DOCUMENT BEING AMENDED:

8 _____

9 RECORDING INFORMATION (BOOK/PAGE OR INSTRUMENT
10 NUMBER): _____

11 THIS AMENDMENT REMOVES FROM THE DOCUMENT DESCRIBED IN
12 PARAGRAPH (3) ALL UNLAWFUL RESTRICTIONS AS DEFINED UNDER THE
13 ACT. REMOVAL OF AN UNLAWFUL RESTRICTION THROUGH THIS
14 AMENDMENT DOES NOT AFFECT THE VALIDITY AND ENFORCEABILITY OF
15 ANY OTHER RESTRICTION THAT IS NOT AN UNLAWFUL RESTRICTION AS
16 DEFINED UNDER THE ACT AT THE TIME OF FILING THIS AMENDMENT.

17 ASSOCIATION'S SIGNATURE: _____

18 DATE: _____

19 NOTARY ACKNOWLEDGMENT: _____

20 WITNESSES: _____

21 **38-36.5-107. Duty and liability of recorder.** (1) THE RECORDER
22 SHALL RECORD AN AMENDMENT SUBMITTED UNDER THIS ARTICLE 36.5,
23 ADD THE AMENDMENT TO THE GRANTOR OR GRANTEE INDEX, AS
24 APPROPRIATE, AND CROSS REFERENCE THE AMENDMENT TO THE
25 DOCUMENT CONTAINING THE UNLAWFUL RESTRICTION.

26 (2) THE RECORDER AND THE RECORDER'S JURISDICTION ARE NOT
27 LIABLE FOR RECORDING AN AMENDMENT UNDER THIS ARTICLE 36.5, FOR

1 THE ABSENCE OF A RECORDED AMENDMENT UNDER THIS ARTICLE 36.5, OR
2 FOR ANY FAILURE OR INACCURACIES IN CROSS-REFERENCING THE
3 AMENDMENT TO THE DOCUMENT CONTAINING THE UNLAWFUL
4 RESTRICTION.

5 **38-36.5-108. Uniformity of application and construction.** IN
6 APPLYING AND CONSTRUING THIS UNIFORM ACT, A COURT SHALL CONSIDER
7 THE PROMOTION OF UNIFORMITY OF THE LAW AMONG JURISDICTIONS THAT
8 ENACT IT.

9 **38-36.5-109. Relation to electronic signatures in global and**
10 **national commerce act.** THIS ARTICLE 36.5 MODIFIES, LIMITS, OR
11 SUPERSEDES THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL
12 COMMERCE ACT, 15 U.S.C. SEC. 7001 ET SEQ., AS AMENDED, BUT DOES
13 NOT MODIFY, LIMIT, OR SUPERSEDE 15 U.S.C. SEC. 7001 (c), OR
14 AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN
15 15 U.S.C. SEC. 7003 (b).

16 **SECTION 2. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly; except
19 that, if a referendum petition is filed pursuant to section 1 (3) of article V
20 of the state constitution against this act or an item, section, or part of this
21 act within such period, then the act, item, section, or part will not take
22 effect unless approved by the people at the general election to be held in
23 November 2024 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.