

REMOVAL OF UNENFORCEABLE COVENANTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

AN ACT RELATING TO REAL ESTATE; DEFINING UNENFORCEABLE COVENANT;
PROVIDING FOR THE RECORDING OF DOCUMENTS WITH UNENFORCEABLE
COVENANTS; VOIDING UNENFORCEABLE COVENANTS; AND MAKING TECHNICAL
CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

57-3-107, as renumbered and amended by Chapter 61, Laws of Utah 1998

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-3-107** is amended to read:

57-3-107. Unenforceable covenants -- Definition -- Inclusion in recorded document.

(1) ~~[Restrictions on alienation of real property contained in a document to be recorded]~~ As used in this chapter, "unenforceable covenant" means a restriction on alienation of real property, whether recited in a document to be recorded under this chapter, or recited in a document of record under this chapter, which [are] is based on race, gender, national origin, marital status, or a similar classification determined to be unenforceable under state or federal law[~~, do not affect the eligibility of that document for recording under this chapter].~~

~~[(2) A restriction described in Subsection (1) may be removed from a document eligible for recording under this section by any of the following means:]~~

~~[(a) A purchaser or seller of real estate may amend a prior recorded restriction by causing a corrected copy of the documents to be prepared for recording which deletes the unenforceable language from the document.]~~

~~[(b) A purchaser or seller of real estate may cause a copy of the documents to be prepared on which the unenforceable language has been overwritten or stamped with words such as~~

28 "VOID", "UNENFORCEABLE UNDER LAW", or words of similar meaning.]

29 [~~(c) A purchaser or seller of real estate may cause a copy of the documents to be prepared~~
30 on which appears the statement "Any provision of this document which violates state or federal
31 law is void."]

32 [~~(3) The cost of preparing and filing a document under Subsection (2) shall be the~~
33 responsibility of the purchaser or seller making the correction and not that of the county recorder.]

34 (2) A document which recites an unenforceable covenant may be recorded as provided in
35 this chapter.

36 (3) Any unenforceable covenant recited in a document to be recorded under this chapter
37 or recited in a document of record is considered void, but does not invalidate the remainder of the
38 document.

Legislative Review Note
as of 1-20-99 9:28 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel