

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 427

Short Title: Discharge of Discriminatory Covenants. (Public)

Sponsors: Senators Mayfield and Murdock (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 1, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A PROCESS FOR THE DISCHARGE OF DISCRIMINATORY
3 COVENANTS IN THE CHAIN OF TITLE FOR REAL PROPERTY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 22B of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 4.

8 "Discriminatory Real Property Restrictions.

9 **"§ 22B-30. Prohibited restrictions.**

10 (a) As used in this section, the following definitions apply:

11 (1) Protected class. – A class of persons identified by their particular race, color,
12 national origin, or religion.

13 (2) Provision. – A clause, stipulation, restriction, covenant, condition, or term
14 contained in a written instrument.

15 (3) Written instrument. – An instrument relating to or affecting real property,
16 including a deed, plat, will, or trust.

17 (b) No written instrument shall contain any provision (i) restricting in any manner the
18 conveyance, lease, use, mortgage, or encumbrance of real property or (ii) otherwise
19 discriminating against any person's or class of persons' status as a protected class. A provision
20 within a written instrument that is commonly understood as describing or referring to a protected
21 class shall also be prohibited under this section.

22 (c) A provision in a written instrument that is prohibited pursuant to this section shall be
23 void and unenforceable, regardless of when the written instrument was executed; however, the
24 written instrument shall be valid and enforceable in all other respects and shall be given effect as
25 though the written instrument does not contain the prohibited provision.

26 **"§ 22B-31. Discharge and release of prohibited restrictions; statutory form.**

27 (a) An owner of an interest in real property may discharge and release a provision that is
28 prohibited pursuant to this Article by recording a form that substantially complies with the
29 description provided in this section with the register of deeds in the county or counties where the
30 real property is situated. A recorded form, properly executed pursuant to this section, shall
31 discharge and release a prohibited provision; however, the written instrument containing the
32 provision shall otherwise remain in full force and effect and shall be construed as though the
33 instrument does not contain the provision.

34 (b) The register of deeds shall record the form described in this section if all of the
35 following requirements have been met:



- (1) Execution of the form by an owner of an interest in the subject real property before a notary.
- (2) The form contains the legal description of the real property affected by a provision prohibited pursuant to this section.
- (3) The form contains the date of recording and the book and page of the written instrument containing the provision prohibited pursuant to this section.
- (4) The form complies with all recording requirements in G.S. 161-14.
- (5) The recording fee authorized under G.S. 161-10 has been paid.

(c) The recording of a form described under this section shall not alter or affect the duration or expiration or extend the effect of the written instrument containing the prohibited provision. The failure to include all record owners of the subject property on the recorded form shall not be deemed to impact the unenforceability of the voided discriminatory provision.

(d) The following statutory form may be used to discharge and release a prohibited provision under this Article:

"DISCHARGE AND RELEASE OF RESTRICTIVE COVENANT AFFECTING PROTECTED CLASSES"

Pursuant to N.C.G.S. § 22B-31, any provision in a written instrument affecting a protected class, including covenants placed on real property with the intent of restricting the use, occupancy, ownership, or financing because of a person's race, color, national origin, or religion, is discharged and released from the land described herein.

STATE OF NORTH CAROLINA
 COUNTY OF _____

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

(Name & Address of Owner(s)) _____

The real property owned by the owner(s) is located in _____ County, North Carolina, PIN # _____ and has the following legal description:

I/We, _____ swear or affirm that I/we am/are 18 years of age or older and am/are not under any legal incapacity and that the information provided in this form is true and correct based upon the information available and based upon reasonable information and belief:

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

(2) The restrictive covenant is contained in an instrument dated _____, and recorded in Book _____, Page _____, in the Office of the _____ County Register of Deeds, and, if applicable, is shown in Plat Book _____, Page _____;

(3) Restrictive covenants relating to or affecting protected classes are unenforceable and void pursuant to N.C.G.S. § 22B-30, the United States Constitution, and the North Carolina Constitution;

(4) N.C.G.S. § 22B-31 provides for the discharge and release of a restrictive covenant of the nature described herein through the use of this statutory form to permanently discharge and release such covenants from the land described herein and release the current and future landowner(s) from any such restrictive covenant related to or affecting protected classes;

(5) I/We hereby personally release and remove from enforcement the restrictive covenant described herein;

(6) The instrument containing the restrictive covenant discharged and released shall have full force and effect in all other respects and shall be construed as though the discharged and released restrictive covenant was not contained therein;

(7) The filing of this form does not alter or change the duration or expiration of any other covenants, conditions, or restrictions existing upon the land.

This the _____ day of _____, 20____

(Owner signature)

(Owner signature)

STATE OF NORTH CAROLINA
COUNTY OF _____

On this _____ day of _____, _____, personally appeared before me the named _____, to me known and known to me to be the person described in and who executed the foregoing instrument and he (or she) acknowledges that he (or she) executed the same and being duly sworn by me, made oath that the statements in the foregoing instrument are true.

Date: _____

(Official Signature of Notary)

(Notary's printed or typed name), Notary Public

(Official Seal)

My commission expires: _____."

SECTION 2. This act becomes effective October 1, 2021.