

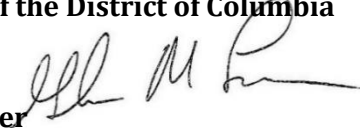
Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee
Chief Financial Officer 

DATE: May 6, 2024

SUBJECT: Fiscal Impact Statement –Unlawful Restrictions in Land Records Act of 2024

REFERENCE: Bill 25-669, Draft Committee Print as provided to the Office of Revenue Analysis on April 18, 2024

Conclusion

Funds are sufficient in the fiscal year 2024 budget and the proposed fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill.

Background

Property owners historically used covenants in property deeds to restrict future owners or uses of the property. Many of these covenants were deemed unenforceable by the courts¹ and made illegal by federal law.² However, the covenants remain on many deeds despite their unenforceability. The Uniform Law Commission sought to standardize a process for property owners to remove racially restrictive covenants and approved a uniform law in 2023.³

The bill implements the uniform law for the District. The bill authorizes a property owner to file a deed amendment to remove the restrictive covenant. It also establishes that an association's governing board can file for an amendment without a vote of the association's members and how a governing board should respond to a member's request to file a deed amendment. The bill outlines the limitations of any amendment to remove a restrictive covenant and provides guidance on the process to submit and execute an amendment.

¹ See, e.g. *Shelley v. Kraemer*, 334 U.S. 1 (1948); and *Barrows v. Jackson*, 346 U.S. 249 (1953).

² Fair Housing Act, enacted April 11, 1968 (42 U.S.C. § 3601 et seq.).

³ See Uniform Unlawful Restrictions in Land Records Act, available at <https://www.uniformlaws.org/>.

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FIS: Bill 25-669, "Unlawful Restrictions in Land Records Act of 2024," Draft Committee Print as provided to the Office of Revenue Analysis on April 18, 2024

The bill also requires the District's Recorder of Deeds to waive any fees directly related to a property owner's attempt to remove a restrictive covenant from their property's deed.

The District also has some properties with restrictive covenants that prohibit multifamily residential buildings. The bill makes these covenants illegal in the District, allowing the property owners to remove the covenants from the property deeds under the same process as the uniform law. This applies to any multifamily residential building restrictions put in place prior to the Zoning Act⁴ or if a multifamily building is otherwise permissible under current Zoning Act regulations.

Financial Plan Impact

Funds are sufficient in the fiscal year 2024 budget and the proposed fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill. Property owners and association governing boards would be responsible for requesting deed amendments to remove restrictive covenants, including the newly unlawful restrictions on multifamily residential buildings. The bill requires the District's Recorder of Deeds to waive any fees for processing these amendments. The Recorder of Deeds does not currently process significant numbers of deed amendments related to restrictive covenants and any lost revenues for waiving the fees are *de minimis*.

⁴ An Act Providing for the zoning of the District of Columbia and the regulation of the location, height, bulk, and uses of buildings and other structures and the uses of land in the District of Columbia, and for other purposes, effective June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01 et seq.).