

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2288

By: Pfeiffer and **Pae** of the
House

and

Howard of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to conveyances; prohibiting
12 discriminatory restrictive covenants in real estate
13 transactions; providing discriminatory restrictive
14 covenants are illegal and unenforceable; providing
15 for a declaration to remove certain discriminatory
16 restrictive covenants; providing declaration to
17 remove certain discriminatory restrictive covenants
18 form; amending 68 O.S. 2021, which relates to
19 property deed tax exemptions; exempting declaration
20 to remove certain discriminatory restrictive
21 covenants from taxes; providing for codification; and
22 providing an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 54 of Title 16, unless there is
created a duplication in numbering, reads as follows:

A person who owns real property or an interest in real property
for which the title includes a recorded conveyance instrument

1 containing an illegal discriminatory restrictive covenants pursuant
2 to the Fair Housing Act, 42 U.S.C. Section 3601 et seq., or another
3 person with the permission of the owner, may declare that the
4 discriminatory restrictive covenants are illegal and unenforceable
5 and should be removed. The declaration shall be filed with the
6 clerk of the county where the property is located.

7 An illegal discriminatory restrictive covenant is not
8 enforceable in this state, and all discriminatory restrictive
9 covenants contained in any real estate transaction, conveyance or
10 instrument recorded in this state are unlawful, are unenforceable,
11 and are declared null and void. Any discriminatory restrictive
12 covenants contained in a previously recorded real estate
13 transaction, conveyance or instrument is extinguished and severed
14 from the recorded real estate transaction, conveyance or instrument
15 and the remainder of the title transaction remains enforceable and
16 effective.

17 SECTION 2. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 55 of Title 16, unless there is
19 created a duplication in numbering, reads as follows:

20 Any discriminatory restrictive covenants prohibited by Section 1
21 of this act may be declared illegal and unenforceable and considered
22 removed from the instrument by the owner of real property subject to
23 such restrictive covenants by recording a declaration to remove
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1 certain discriminatory restrictive covenants. The real property
2 owner may record such declaration:

3 1. Prior to recordation of a deed conveying real property to a
4 purchaser; or

5 2. When such real property owner discovers that such
6 discriminatory restrictive covenants exist.

7 Such declaration may be may be prepared without assistance of an
8 attorney, but such declaration to remove certain discriminatory
9 restrictive covenants shall conform substantially to the following
10 form:

11 DECLARATION TO REMOVE CERTAIN DISCRIMINATORY RESTRICTIVE
12 COVENANTS

13 County where property is located: _____

14 Date of Instrument containing discriminatory restrictive
15 covenants(s): _____

16 Instrument Type: _____

17 Instrument recorded in Book _____ Page _____

18 Name(s) of Grantor(s): _____

19 Name(s) of Current Owner(s): _____

20 Real Property Description: _____

21 The discriminatory restrictive covenants contained in the above-
22 mentioned instrument is declared to be illegal and unlawful and
23 shall be considered removed from the instrument to the extent that
24

1 it contains terms purporting to restrict the ownership or use of the
2 property as prohibited by Section 1 of this act.

3 The undersigned is/are the legal owner(s) of the property described
4 herein.

5 Signed and delivered this ___ day of _____, ____.

6 _____
7 _____

8 State of Oklahoma,)

9) ss.

10 _____ County.)

11 Before me, ___ in and for this state, on this ___ day of ____,

12 _____ personally appeared _____ to me known to be the

13 identical person(s) who executed the within and foregoing

14 instrument, and acknowledged to me that ___ executed the same as

15 ___ free and voluntary act and deed for the uses and purposes

16 therein set forth.

17 SECTION 3. AMENDATORY 68 O.S. 2021, Section 3202, is

18 amended to read as follows:

19 Section 3202. The tax imposed by Section 3201 of this title

20 shall not apply to:

21 1. Deeds recorded prior to the effective date of Sections 3201
22 through 3206 of this title;

23 2. Deeds which secure a debt or other obligation;

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1 3. Deeds which, without additional consideration, confirm,
2 correct, modify or supplement a deed previously recorded;

3 4. Deeds between husband and wife, or parent and child, or any
4 persons related within the second degree of consanguinity, without
5 actual consideration therefor, deeds between any person and an
6 express revocable trust created by such person or such person's
7 spouse or deeds pursuant to which property is transferred from a
8 person to a partnership, limited liability company or corporation of
9 which the transferor or the transferor's spouse, parent, child, or
10 other person related within the second degree of consanguinity to
11 the transferor, or trust for primary benefit of such persons, are
12 the only owners of the partnership, limited liability company or
13 corporation. However, if any interest in the partnership, limited
14 liability company or corporation is transferred within one (1) year
15 to any person other than the transferor or the transferor's spouse,
16 parent, child, or other person related within the second degree of
17 consanguinity to the transferor, the seller shall immediately pay
18 the amount of tax which would have been due had this exemption not
19 been granted;

20 5. Tax deeds;

21 6. Deeds of release of property which is security for a debt or
22 other obligation;

23 7. Deeds executed by American Indians in approval proceedings
24 of the district courts or by the Secretary of the Interior;

1 8. Deeds of partition, unless, for consideration, some of the
2 parties take shares greater in value than their undivided interests,
3 in which event a tax attaches to each deed conveying such greater
4 share computed upon the consideration for the excess;

5 9. Deeds made pursuant to mergers of partnerships, limited
6 liability companies or corporations;

7 10. Deeds made by a subsidiary corporation to its parent
8 corporation for no consideration other than the cancellation or
9 surrender of the subsidiary's stock;

10 11. Deeds or instruments to which the State of Oklahoma or any
11 of its instrumentalities, agencies or subdivisions is a party,
12 whether as grantee or as grantor or in any other capacity;

13 12. Deeds or instruments to which the United States or any of
14 its agencies or departments is a party, whether as grantor or as
15 grantee or in any other capacity, provided that this shall not
16 exempt transfers to or from national banks or federal savings and
17 loan associations;

18 13. Any deed executed pursuant to a foreclosure proceeding in
19 which the grantee is the holder of a mortgage on the property being
20 foreclosed, or any deed executed pursuant to a power of sale in
21 which the grantee is the party exercising such power of sale or any
22 deed executed in favor of the holder of a mortgage on the property
23 in consideration for the release of the borrower from liability on
24 the indebtedness secured by such mortgage except as to cash

1 consideration paid; provided, however, the tax shall apply to deeds
2 in other foreclosure actions, unless otherwise hereinabove exempted,
3 and shall be paid by the purchaser in such foreclosure actions; ~~or~~

4 14. Deeds and other instruments to which the Oklahoma Space
5 Industry Development Authority or a spaceport user, as defined in
6 the Oklahoma Space Industry Development Act, is a party; or

7 15. Declaration to remove certain discriminatory restrictive
8 covenants pursuant to Section 2 of this act.

9 SECTION 4. This act shall become effective November 1, 2023.

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COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated
03/06/2023 - DO PASS, As Amended and Coauthored.