

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2376

By Committee on Local Government

2-9

1 AN ACT concerning housing discrimination; relating to the Kansas act
2 against discrimination; prohibiting the recording of unlawful restrictive
3 covenants; authorizing the removal of unlawful restrictive covenants;
4 ~~prohibiting any city or county ordinance or resolution prohibiting~~
5 ~~discrimination that is more restrictive than the Kansas act against~~
6 ~~discrimination~~; amending K.S.A. 44-1017a and repealing the existing
7 section.
8

9 **WHEREAS, In honor and in most respectful observance of Black**
10 **History Month in Kansas, this august body, representing the will of**
11 **the People of Kansas, hereby acts, in accordance with the 1968 Fair**
12 **Housing Act, to comprehensively address and provide for release from**
13 **the dark past of racially discriminatory "restrictive covenants" in the**
14 **State of Kansas.**

15 **Now, therefore:**

16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. (a) Any restrictive covenant recitals on real property
18 contained in any deed, plat, declaration, restriction, covenant or other
19 conveyance filed at any time in the office of the register of deeds in any
20 county in violation of K.S.A. 44-1016 or 44-1017, and amendments
21 thereto, shall be void and unenforceable.

22 (b) A restrictive covenant that violates K.S.A. 44-1016 or 44-1017,
23 and amendments thereto, may be released by the owner of the real
24 property subject to such covenant by recording a certificate of release of
25 prohibited covenants. Such certificate may be recorded prior to recording
26 of a document conveying any interest in such real property or at such other
27 time as the owner discovers that such prohibited covenant exists. Any
28 certificate recorded with the register of deeds shall be subject to recording
29 fees pursuant to K.S.A. 28-115, and amendments thereto. A certificate of
30 release of prohibited covenants shall contain:

- 31 (1) The name of the current owner of the real property;
- 32 (2) a legal description of the real property;
- 33 (3) the volume and page or the document number in which the
34 original document containing the restrictive covenant is recorded;
- 35 (4) a brief description of the restrictive covenant; and
- 36 (5) the citation to the location of the restrictive covenant in the

1 original document.

2 ~~New Sec. 2. (a) No city or county shall adopt or enforce any~~
3 ~~ordinance, resolution or regulation related to discrimination on the basis of~~
4 ~~race, religion, color, sex, disability, national origin or ancestry that is more~~
5 ~~restrictive than the provisions of the Kansas act against discrimination,~~
6 ~~K.S.A. 44-1001 et seq., and amendments thereto, or any other provisions~~
7 ~~of law related to such discrimination. No agent of any city or county shall~~
8 ~~take any action with respect to any such ordinance, resolution or~~
9 ~~regulation.~~

10 ~~(b) Any ordinance, resolution or regulation prohibited by subsection~~
11 ~~(a) that was adopted prior to July 1, 2023, shall be void and unenforceable.~~

12 ~~(c) No action shall be commenced or prosecuted against any~~
13 ~~individual for a violation of any ordinance, resolution or regulation~~
14 ~~prohibited by subsection (a) that was adopted prior to July 1, 2023.~~

15 ~~(d) The provisions of this section shall be a part of and supplemental~~
16 ~~to the Kansas act against discrimination.~~

17 ~~Sec. 3. 2. K.S.A. 44-1017a is hereby amended to read as follows: 44-~~
18 ~~1017a. (a) No declaration or other governing document of an association~~
19 ~~shall include a restrictive covenant in violation of K.S.A. 44-1016 and 44-~~
20 ~~1017, and amendments thereto.~~

21 (b) Within 60 days of the effective date of this act, the board of
22 directors of an association shall amend any declaration or other governing
23 document that includes a restrictive covenant in violation of K.S.A. 44-
24 1016 and 44-1017, and amendments thereto, by removing such restrictive
25 covenant. Such amendment shall not require the approval of the members
26 of the association. No other change shall be required to be made to the
27 declaration or other governing document of the association pursuant to this
28 section. Within 10 days of the adoption of the amendment, the amended
29 declaration or other governing document shall be recorded in the same
30 manner as the original declaration or other governing document *and shall*
31 *be subject to recording fees pursuant to K.S.A. 28-115, and amendments*
32 *thereto. No fee shall be charged for such recording.*

33 (c) If the commission, a city or county ~~in which~~ *where* the association
34 is located provides written notice to an association requesting that the
35 association delete a restrictive covenant in violation of K.S.A. 44-1016 and
36 44-1017, and amendments thereto, the association shall delete the
37 restrictive covenant within 30 days of receiving the notice. If the
38 association fails to delete the restrictive covenant in violation of K.S.A.
39 44-1016 and 44-1017, and amendments thereto, the commission, a city or
40 county ~~in which~~ *where* the association is located, or any person adversely
41 affected by such restrictive covenant may bring an action against the
42 homeowners association for injunctive relief to enforce the provisions of
43 subsections (a) and (b) ~~of this section~~. The court may award attorney's fees

1 to the prevailing party.

2 (d) *If a city or county determines that the association is no longer*
3 *active such that the written notice described in subsection (c) cannot be*
4 *provided to the association, then the city or county, upon adoption of a*
5 *resolution by the governing body of such city or county, may remove such*
6 *restrictive covenant that is in violation of K.S.A. 44-1016 or 44-1017, and*
7 *amendments thereto, by recording a certificate of release of prohibited*
8 *covenants in accordance with section 1, and amendments thereto. A*
9 *resolution may authorize the removal of more than one restrictive*
10 *covenant that is in violation of K.S.A. 44-1016 or 44-1017, and*
11 *amendments thereto. No signature or other consent of any property owner*
12 *affected by such recording shall be required to record any certificate of*
13 *release of prohibited covenants pursuant to this subsection. Any such*
14 *certificate recorded pursuant to this subsection shall not affect the validity*
15 *of any property interest recorded within the original or redacted plat. No*
16 *city or county shall incur any liability arising from the recording of any*
17 *certificate of release of prohibited covenants pursuant to this subsection.*
18 *No fee shall be charged for any recording filed pursuant to this subsection.*
19 *Any such recording shall be exempt from the survey requirements of K.S.A.*
20 *58-2001 et seq., and amendments thereto.*

21 (e) For the purposes of this section:

22 (1) "Association" means a non-profit homeowners association as
23 defined in K.S.A. 60-3611, and amendments thereto.

24 (2) "Commission" means the Kansas human rights commission as
25 defined in K.S.A. 44-1002, and amendments thereto.

26 (e) This section shall be *a part of and supplemental to* ~~and a part of~~
27 the Kansas act against discrimination.

28 ~~Sec. 4. 3.~~ K.S.A. 44-1017a is hereby repealed.

29 ~~Sec. 5. 4.~~ This act shall take effect and be in force from and after its
30 publication in the statute book.