

# Senate Bill 750

Sponsored by Senator MORRISETTE (at the request of Kenny and Lara Howe)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Replaces process for removing discriminatory language from restrictive covenant with process for modifying restrictive covenant to remove discriminatory language. Requires certain persons to stamp copy of declaration, governing document or deed with notice that discriminatory restrictive covenants are void and may be removed by following modification process.

## A BILL FOR AN ACT

1  
2 Relating to discriminatory language; creating new provisions; and repealing ORS 93.272.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section, "instrument" means an instrument conveying**  
5 **or contracting to convey fee title to real property.**

6 **(2) A county clerk, title insurance company, escrow company, real estate broker or real**  
7 **estate agent that provides a copy of an instrument to any person shall place a cover page**  
8 **or stamp on the first page of the previously recorded document or documents stating, in at**  
9 **least 14-point boldface type, the following:**

10 \_\_\_\_\_  
11  
12 **If this document contains any restriction based on color, race, religion, national origin**  
13 **or physical or mental disability, that restriction violates state and federal fair housing laws**  
14 **and is void, and may be removed pursuant to section 2 of this 2007 Act.**

15 \_\_\_\_\_  
16  
17 **(3) The requirements of subsection (2) of this section do not apply to instruments being**  
18 **submitted for recordation to a county clerk.**

19 **SECTION 2. (1) A person that holds an ownership interest of record in real property that**  
20 **the person believes is the subject of an unlawfully restrictive covenant in violation of ORS**  
21 **93.270 (1) may record a document titled Restrictive Covenant Modification. The county clerk**  
22 **may choose to waive the fee required by ORS 205.320 for recording the modification docu-**  
23 **ment. The modification document shall include a complete copy of the original document**  
24 **containing the unlawfully restrictive language with the unlawfully restrictive language**  
25 **stricken.**

26 **(2) Before recording the modification document, the county recorder shall submit the**  
27 **modification document and the original document to the county counsel who shall determine**  
28 **whether the original document contains an unlawful restriction based on color, race, reli-**  
29 **gion, national origin or physical or mental disability. The county counsel shall return the**  
30 **documents and inform the county recorder of the county counsel's determination. The**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 county recorder shall refuse to record the modification document if the county counsel finds  
2 that the original document does not contain an unlawful restriction described in this sub-  
3 section.

4 (3) The modification document shall be indexed in the same manner as the original docu-  
5 ment. The modification document shall contain a recording reference to the original docu-  
6 ment in the form of a book and page or instrument number and date of the recording.

7 (4) Subject to covenants, conditions and restrictions that were recorded after the re-  
8 cording of the original document that contains the unlawfully restrictive language and sub-  
9 ject to covenants, conditions and restrictions that will be recorded after the Restrictive  
10 Covenant Modification, the restrictions in the Restrictive Covenant Modification, once re-  
11 corded, are the only restrictions having effect on the property. The effective date of the  
12 terms and conditions of the modification document shall be the same as the effective date  
13 of the original document.

14 (5) The county recorder shall make available to the public Restrictive Covenant Modifi-  
15 cation forms.

16 (6) If the holder of an ownership interest of record in property causes to be recorded a  
17 modified document pursuant to this section that contains modifications not authorized by  
18 this section, the county recorder shall not incur liability for recording the document. The  
19 liability that may result from the unauthorized recordation is the sole responsibility of the  
20 holder of the ownership interest of record who caused the modified recordation.

21 (7) This section does not apply to individual property or unit owners having an ownership  
22 interest in the common property of a planned community or the common elements of a  
23 condominium for the purpose of modifying the restrictive covenants of the common property  
24 or common elements. However, the board of directors for a homeowners association or as-  
25 sociation of unit owners having control over the common property or common elements may  
26 file a modification document for the purpose of modifying the restrictive covenants for the  
27 common property of a planned community or common elements of a condominium.

28 **SECTION 3.** ORS 93.272 is repealed.

29 **SECTION 4.** The repeal of ORS 93.272 by section 3 of this 2007 Act does not act to ter-  
30 minate any action under ORS 93.272 pending on the effective date of this 2007 Act. Any action  
31 under ORS 93.272 pending on the effective date of this 2007 Act may continue to final resolu-  
32 tion as authorized under ORS 93.272 as set forth in the 2005 Edition of Oregon Revised  
33 Statutes.

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