



# House of Representatives

## File No. 683

General Assembly

January Session, 2021

**(Reprint of File No. 582)**

Substitute House Bill No. 6665  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 13, 2021

**AN ACT CONCERNING THE REMOVAL OF RESTRICTIONS ON OWNERSHIP OR OCCUPANCY OF REAL PROPERTY BASED ON RACE AND ELIMINATION OF THE RACE DESIGNATION ON MARRIAGE LICENSES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2021*) (a) For purposes of this  
2 section, "unlawful restrictive covenant" means a covenant or other  
3 provision in an instrument affecting the title to real property that  
4 purports to restrict ownership or occupancy of such real property on the  
5 basis of race.

6 (b) Any unlawful restrictive covenant contained in any instrument  
7 affecting title to real property that is recorded in the land records of any  
8 municipality shall be void. If an unlawful restrictive covenant is  
9 contained in any instrument affecting title to real property that also  
10 contains any other covenant or provision that is not an unlawful  
11 restrictive covenant, the validity and enforceability of the remaining

12 covenants or provisions, as well as the validity of the recorded  
13 instrument itself, shall not be affected by the voiding of the unlawful  
14 restrictive covenant.

15 (c) Any owner of real property who identifies an unlawful restrictive  
16 covenant in an instrument recorded on the land records that relates to  
17 real property owned by such person may file either an affidavit  
18 pursuant to section 47-12a of the general statutes, as amended by this  
19 act, or a form described in subsection (f) of this section, with the town  
20 clerk in the municipality where the real property is located, identifying  
21 the existence of such unlawful restrictive covenant. Such affidavit or  
22 form shall (1) be in the form required by section 47-12a of the general  
23 statutes, as amended by this act; (2) identify the volume and page of the  
24 land records for the instrument or instruments that contain the unlawful  
25 restrictive covenant; and (3) state that the affidavit or form is being filed  
26 to carry out the provisions of this section. Failure to file such affidavit or  
27 form shall not otherwise affect the invalidity of the unlawful restrictive  
28 covenant under this section. The town clerk shall record such affidavit  
29 or form, and, to the extent practicable, notate the indices to the land  
30 records accordingly to reflect the invalidity of the unlawful restrictive  
31 covenant. No town clerk may assess any recording fee for the filing of  
32 such affidavit or form.

33 (d) A reference in any recorded instrument affecting title to real  
34 property, or in any other document, including, but not limited to, a  
35 report, opinion, contract or insurance policy, to covenants, conditions,  
36 restrictions or provisions contained in an instrument previously  
37 recorded in the land records, shall not constitute a revival, reinstatement  
38 or republication of an unlawful restrictive covenant. Any affidavit or  
39 other form recorded in connection with this section is not an  
40 encumbrance on the real property.

41 (e) If a person causes an affidavit or a form to be recorded under  
42 subsection (c) of this section that is not in fact authorized by this section,  
43 the town clerk and the municipality shall not be liable for any damages  
44 resulting from the recording of the affidavit or form pursuant to this

45 section. Any liability that may result by a recording that is not  
46 authorized in fact by subsection (c) of this section shall be the sole  
47 responsibility of the person who caused the affidavit or form to be  
48 recorded.

49 (f) Not later than December 1, 2021, the Office of Policy and  
50 Management shall develop a standardized form for the purposes of  
51 subsection (c) of this section. The town clerk in each municipality shall  
52 (1) make such form available on the Internet web site of the municipality  
53 and in the area of the town clerk's office where land records are kept,  
54 and (2) post a notice informing the public of the provisions of this  
55 section in the area of the town clerk's office where land records are kept.

56 Sec. 2. Subsection (b) of section 47-12a of the general statutes is  
57 repealed and the following is substituted in lieu thereof (*Effective July 1,*  
58 *2021*):

59 (b) The affidavits provided for in this section may relate to the  
60 following matters: Age, sex, birth, death, capacity, relationship, family  
61 history, heirship, names, identity of parties, marital status, possession  
62 or adverse possession, adverse use, residence, service in the armed  
63 forces, conflicts and ambiguities in description of land in recorded  
64 instruments, the happening of any condition or event which may  
65 terminate an estate or interest, unlawful restrictive covenants and any  
66 other state of facts affecting title to real property.

67 Sec. 3. Section 46b-25 of the general statutes is repealed and the  
68 following is substituted in lieu thereof (*Effective October 1, 2021*):

69 No license may be issued by the registrar until both persons have  
70 appeared before the registrar and made application for a license. The  
71 registrar shall issue a license to any two persons eligible to marry under  
72 this chapter. The license shall be completed in its entirety, dated, signed  
73 and sworn to by each applicant and shall state each applicant's name,  
74 age, [race,] birthplace, residence, whether single, widowed or divorced  
75 and whether under the supervision or control of a conservator or  
76 guardian. The Social Security numbers of both persons shall be recorded

77 in the "administrative purposes" section of the license. If the license is  
78 signed and sworn to by the applicants on different dates, the later date  
79 shall be deemed the date of application.

80 Sec. 4. Section 47-70a of the general statutes is repealed and the  
81 following is substituted in lieu thereof (*Effective July 1, 2021*):

82 (a) [The] Except as provided in subsection (d) of this section, the  
83 declaration shall be amended only by vote of two-thirds of the unit  
84 owners, and the bylaws shall be amended by vote of a majority of unit  
85 owners, at any meeting of the unit owners' association duly called for  
86 either purpose, following written notice to all unit owners and their  
87 mortgagees appearing on the records of the association, except that if  
88 such amendment whether of the declaration or of the bylaws directly or  
89 indirectly changes the boundaries of any unit, the undivided interest in  
90 the common elements appertaining thereto, the liability for common  
91 elements appertaining thereto, the liability for common expenses or  
92 rights to common profits appertaining thereto, or the number of votes  
93 in the unit owners' association appertaining thereto, such amendment  
94 shall require the affirmative vote of seventy-five per cent of the unit  
95 owners and shall, in addition, require the consent of the mortgagees of  
96 at least seventy-five per cent of the units subject to mortgage.

97 (b) The declarant may require a unit owner or purchaser to execute  
98 and to deliver to the declarant a power of attorney or other document  
99 assigning to the declarant the right of a unit owner to vote on the  
100 amendment of condominium instruments pursuant to subsection (a) of  
101 this section, provided such power of attorney or other document shall  
102 be exercised or implemented only to amend the condominium  
103 instruments for the purpose of adding additional land in an expandable  
104 condominium pursuant to section 47-71a, and to reallocate the  
105 undivided interests in the common elements resulting from such  
106 expansion pursuant to subsection (c) of section 47-74, and the power of  
107 attorney or other document shall be expressly so limited.

108 (c) Notwithstanding any other provision of this chapter or the

109 condominium instruments, the designation of the agent for the service  
110 of process named in the declaration may be changed from time to time  
111 by recording in the land records wherein the declaration is recorded the  
112 instrument for designation of an agent for service of process, which if  
113 the association is incorporated, shall be a copy of the instrument  
114 transmitted to the Secretary of the State or if not incorporated, an  
115 instrument including the same information as such an instrument for  
116 designation of agent. In addition, the instrument for designation shall  
117 refer to the volume and first page of the original condominium  
118 instruments.

119 (d) (1) The board of directors may, by a vote of a majority of the  
120 members of said board and without further need for a vote by unit  
121 owners, amend the declaration to remove from such declaration any  
122 provision that purports to restrict ownership or occupancy of units  
123 within the condominium on the basis of race.

124 (2) If a unit owner submits a written request to the board of directors  
125 for an amendment to the declaration to remove a provision that  
126 purports to restrict ownership or occupancy of units within the  
127 condominium on the basis of race, the board shall, not later than ninety  
128 days after receipt of such a request, hold a meeting to determine  
129 whether such a provision exists in the declaration and should be  
130 removed pursuant to the provisions of subdivision (1) of this subsection.

131 Sec. 5. Section 47-236 of the general statutes is repealed and the  
132 following is substituted in lieu thereof (*Effective July 1, 2021*):

133 (a) Except in cases of amendments that may be executed by a  
134 declarant under subsection (f) of section 47-228 or section 47-229, or by  
135 the association under section 47-206, subsection (d) of section 47-225,  
136 subsection (c) of section 47-227, subsection (a) of section 47-231 or  
137 section 47-232, or by certain unit owners under subsection (b) of section  
138 47-227, subsection (a) of section 47-231, subsection (b) of section 47-232,  
139 subsection (b) of section 47-237 or section 47-242, or by the executive  
140 board under subsection (k) of this section, and except as limited by

141 subsections (d) and (f) of this section, the declaration, including any  
142 surveys and plans, may be amended only as follows:

143 (1) By vote or agreement of unit owners of units to which at least  
144 sixty-seven per cent of the votes in the association are allocated, unless  
145 the declaration specifies either a larger percentage or a smaller  
146 percentage, but not less than a majority, for all amendments or for  
147 specific subjects of amendment;

148 (2) The declaration may provide that all amendments or specific  
149 subjects of amendment may be approved by the unit owners of units  
150 having any of the percentages of votes, as provided in subdivision (1) of  
151 this subsection, of a specified group of units that would be affected by  
152 the amendment, rather than all of the units in the common interest  
153 community; or

154 (3) The declaration may specify a smaller number only if all of the  
155 units are restricted exclusively to nonresidential use.

156 (b) No action to challenge the validity of an amendment adopted by  
157 the association pursuant to this section may be brought more than one  
158 year after the amendment is recorded.

159 (c) Every amendment to the declaration shall be recorded in every  
160 town in which any portion of the common interest community is located  
161 and is effective only on recordation. An amendment, except an  
162 amendment pursuant to subsection (a) of section 47-231, shall be  
163 indexed in the grantee's index in the name of the common interest  
164 community and the association and in the grantor's index in the name  
165 of the parties executing the amendment.

166 (d) Except in the case of the exercise of development rights pursuant  
167 to section 47-229 or to the extent otherwise expressly permitted or  
168 required by other provisions of this chapter, with respect to a common  
169 interest community, whether created before, on or after January 1, 1984,  
170 no amendment may create or increase special declarant rights, increase  
171 the number of units or change the boundaries of any unit or the

172 allocated interests of a unit, in the absence of unanimous consent of the  
173 unit owners.

174 (e) Amendments to the declaration required by this chapter to be  
175 recorded by the association shall be prepared, executed, recorded and  
176 certified on behalf of the association by any officer of the association  
177 designated for that purpose or, in the absence of designation, by the  
178 president of the association.

179 (f) An amendment to the declaration may prohibit or materially  
180 restrict the permitted uses or occupancy of a unit or the number or other  
181 qualifications of persons who may occupy units only by vote or  
182 agreement of unit owners of units to which at least eighty per cent of the  
183 votes in the association are allocated, unless the declaration specifies  
184 that a larger percentage of unit owners must vote or agree to that  
185 amendment or that such an amendment may be approved by the unit  
186 owners of units having at least eighty per cent of the votes of a specified  
187 group of units that would be affected by the amendment. An  
188 amendment approved under this subsection must provide reasonable  
189 protection for a use or occupancy permitted at the time the amendment  
190 was adopted.

191 (g) The time limits specified in the declaration pursuant to  
192 subdivision (8) of subsection (a) of section 47-224, within which reserved  
193 development rights and special declarant rights must be exercised may  
194 be extended, the number of units may be increased and new  
195 development rights or other special declarant rights may be created by  
196 amendment to the declaration if persons entitled to cast at least eighty  
197 per cent of the votes in the association, including eighty per cent of the  
198 votes allocated to units not owned by the declarant, agree to that action.  
199 The amendment must identify the association or other persons who  
200 hold any new rights that are created. Notice of the proposed  
201 amendment to the declaration must be delivered in a record to all  
202 persons holding development rights or security interests in those rights.  
203 Notwithstanding the provisions of subsection (c) of this section, the  
204 amendment to the declaration is effective thirty days after the

205 amendment is recorded and notice is delivered unless any of the persons  
206 entitled to notice under this subsection records an objection in a record  
207 within the thirty-day period, in which case the amendment is void, or  
208 unless all of the persons entitled to notice under this subsection consent  
209 in a record at the time the amendment is recorded, in which case the  
210 amendment is effective when recorded.

211 (h) Provisions in the declaration creating special declarant rights that  
212 have not expired may not be amended without the consent of the  
213 declarant.

214 (i) If any provision of this chapter or of the declaration or bylaws of  
215 any common interest community created before, on or after January 1,  
216 1984, requires the consent of a person holding a security interest in a  
217 unit as a condition to the effectiveness of any amendment to the  
218 declaration or bylaws, that consent shall be deemed granted if a refusal  
219 to consent in a record is not received by the association within forty-five  
220 days after the association delivers notice of the proposed amendment to  
221 the holder of the interest or mails the notice to the holder of the interest  
222 by certified mail, return receipt requested. The association may rely on  
223 the last-recorded security interest of record in delivering or mailing  
224 notice to the holder of that interest. Notwithstanding any provision of  
225 this section, an amendment to the declaration or bylaws that affects the  
226 priority of a holder's security interest, other than an amendment  
227 regarding the priority of the association's lien authorized by section 47-  
228 258 or the ability of that holder to foreclose its security interest may not  
229 be adopted without that holder's consent in a record if the declaration  
230 or bylaws require that consent as a condition to the effectiveness of the  
231 amendment.

232 (j) If the declaration or bylaws of a common interest community,  
233 whether created before, on or after January 1, 1984, contains a provision  
234 requiring that amendments to the declaration or bylaws, other than  
235 amendments described in subsection (d) of this section, may be adopted  
236 only by the vote or agreement of unit owners of units to which more  
237 than eighty per cent of the votes in the association are allocated, such a

238 proposed amendment shall be deemed approved if:

239 (1) (A) Unit owners of units to which more than eighty per cent of the  
240 votes in the association are allocated vote for or agree to the proposed  
241 amendment;

242 (B) No unit owner votes against the proposed amendment; and

243 (C) Notice of the proposed amendment is delivered to the unit  
244 owners holding the votes in the association that have not voted or  
245 agreed to the proposed amendment and no objection in a record to the  
246 proposed amendment is received by the association within thirty days  
247 after the association delivers notice; or

248 (2) Unit owners of units to which more than eighty per cent of the  
249 votes in the association are allocated vote for or agree to the proposed  
250 amendment but at least one unit owner objects to the proposed  
251 amendment and, pursuant to an action brought by the association in the  
252 Superior Court against all objecting unit owners, the court finds that the  
253 objecting unit owner or owners do not have a unique minority interest,  
254 different in kind from the interests of the other unit owners, that the  
255 voting requirement of the declaration was intended to protect.

256 (k) (1) The executive board may, by a vote of a majority of the  
257 members of said board at a meeting held pursuant to section 47-250,  
258 amend the declaration of a common interest community to remove from  
259 such declaration a provision that purports to restrict ownership or  
260 occupancy of units within the common interest community on the basis  
261 of race.

262 (2) If a unit owner submits a written request to the executive board  
263 for an amendment to the declaration to remove a provision that  
264 purports to restrict ownership or occupancy of units within the common  
265 interest community on the basis of race, the board shall, not later than  
266 ninety days after receipt of such a request, hold a meeting to determine  
267 whether such a provision exists in the declaration and should be  
268 removed pursuant to the provisions of subdivision (1) of this subsection.

|   |                        |             |
|---|------------------------|-------------|
| This act shall take effect as follows and shall amend the following sections: |                        |             |
| Section 1   | <i>July 1, 2021</i>    | New section |
| Sec. 2  | <i>July 1, 2021</i>    | 47-12a(b)   |
| Sec. 3  | <i>October 1, 2021</i> | 46b-25      |
| Sec. 4  | <i>July 1, 2021</i>    | 47-70a      |
| Sec. 5  | <i>July 1, 2021</i>    | 47-236      |

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill voids unlawful restrictive covenants from real property and does not result in a fiscal impact to the state or municipalities.

House "A" modifies common interest ownerships and does not result in a fiscal impact to the state or municipalities.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

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**OLR Bill Analysis****sHB 6665 (as amended by House "A")\******AN ACT CONCERNING THE REMOVAL OF RESTRICTIVE COVENANTS BASED ON RACE AND ELIMINATION OF THE RACE DESIGNATION ON MARRIAGE LICENSES.*****SUMMARY**

This bill voids "unlawful restrictive covenants," which are covenants or provisions in instruments affecting the title to real property that purport to restrict ownership or occupancy based on race. The bill does not affect any other property covenant or provision or its validity, so long as it is not unlawfully restrictive.

The bill requires town clerks, after receiving a form or an affidavit notifying them of an unlawful restrictive covenant, to record it and to the extent practicable notate the land records. The bill correspondingly requires the Office of Policy and Management, by December 1, 2021, to develop a standardized form to report unlawful restrictive covenants to town clerks and makes a conforming change allowing the affidavits. Under the bill, each town clerk must (1) make the form available on the municipality's website and in the town clerk's office where land records are kept and (2) post a notice informing the public of the bill's provisions in the town clerk's land records office.

The bill also provides a process for condominium and common interest community unit owners and their associations' boards of directors or executive boards, as applicable, to remove provisions in association declarations that restrict ownership or occupancy by race.

Lastly, the bill removes race from the list of demographic information applicants must provide on marriage licenses (§ 3).

\*House Amendment "A" adds the condominium and common interest community provisions.

EFFECTIVE DATE: July 1, 2021, except the marriage license provisions are effective October 1, 2021.

## **UNLAWFUL RESTRICTIVE COVENANTS**

### ***Recording in Land Records***

Under the bill, a real property owner who identifies an unlawful restrictive covenant in an instrument recorded on the land records may file a form or affidavit identifying it with a town clerk. The affidavit or form must:

1. be in the form existing law requires for other affidavits relating to land titles,
2. identify the land record volume and page that the instrument containing the unlawful covenant is on, and
3. state that the affidavit or form is being filed in accordance with the bill.

To the extent practicable, a town clerk receiving one of these forms or affidavits must notate the indices to the land records to reflect the covenant's invalidity. Under the bill, the town clerk may not assess a recording fee for this.

An unlawful restrictive covenant is invalid under the bill regardless of whether a property owner files the form or affidavit described above.

Additionally, the bill deems that any references to an unlawful restrictive covenant in recorded instruments do not constitute its revival, reinstatement, or republication. This applies to instruments affecting real title or any other documents affecting land records, including reports, opinions, contracts, or insurance policies. An affidavit or form recorded under the bill's provision does not encumber the property.

**Liability**

A town clerk or municipality is not liable under the bill for any damages resulting from recording an affidavit or form unauthorized under the bill’s provisions. The bill instead makes any liability from an unauthorized recording the sole responsibility of the person who caused the affidavit or form to be recorded.

**CONDOMINIUM AND COMMON INTEREST OWNERSHIP ASSOCIATIONS**

Generally, a “declaration” is an instrument that creates and governs a condominium or common interest community (CGS §§ 47-70 & -202). The bill allows a condominium association board of directors, or a common interest association executive board, by a majority vote, to remove a provision from the association’s declaration that purports to restrict ownership or occupancy by race. For condominium associations, the bill specifies that no additional vote by the unit owners is required. For common interest associations, the vote must be at a unit owner or association meeting held in accordance with existing law.

The bill also requires boards to hold a meeting, within 90 days of receiving a written request from a unit owner to remove a provision in the association’s declaration that restricts ownership or occupancy by race, to determine whether the provision exists and should be removed according to the procedures described above.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/06/2021)