

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred House Bill No. 551  
3 entitled “An act relating to prohibiting racially and religiously restrictive  
4 covenants in deeds” respectfully reports that it has considered the same and  
5 recommends that the bill be amended by striking out all after the enacting  
6 ` clause and inserting in lieu thereof the following:

7 Sec. 1. LEGISLATIVE INTENT

8 While racially and religiously restrictive covenants have been held  
9 unenforceable by courts since the U.S. Supreme Court’s 1948 decision in  
10 Shelley v. Kramer, 344 U.S. 1 (1948), no State law currently exists to ~~remove~~  
11 ~~or~~ render these covenants void and to put an end to what was an invidious,  
12 historical practice of discrimination in the United States. This practice was  
13 responsible, in part, for preventing ~~Americans of BIPOC persons of racial~~ and  
14 religious minority backgrounds from fully participating in one of the greatest  
15 expansions of wealth and prosperity in this country’s history through federally  
16 backed mortgages and freely available homeownership. It is the intent of the  
17 General Assembly that this act prohibit racially and religiously restrictive  
18 covenants from ever being used in Vermont again, regardless of their  
19 enforceability, and that it ~~establish a process for their removal from existing~~  
20 ~~real estate transaction record~~ ensure that existing racially and religiously  
21 restrictive covenants remain in municipal land records to preserve the

1 historical record and maintain critical evidence of a pervasive system of  
2 discrimination that existed in Vermont and throughout the country.

3 Sec. 2. 27 V.S.A. § 546 is added to read:

4 § 546. RACIALLY AND RELIGIOUSLY RESTRICTIVE COVENANTS IN  
5 DEEDS PROHIBITED; PROCESS FOR REMOVAL

6 (a) A deed, mortgage, plat, or other recorded device recorded on or after  
7 July 1, 2022 shall not contain a covenant, easement, or any other restrictive or  
8 reversionary interest purporting to restrict the ownership or use of real property  
9 on the basis of race or religion.

10 (b) A covenant, easement, or any other restrictive or reversionary interest in  
11 a deed, mortgage, plat, or other recorded device purporting to restrict the  
12 ownership or use of real property on the basis of race or religion is declared  
13 contrary to the public policy of the State of Vermont and shall be void and  
14 unenforceable. This subdivision shall apply to a restrictive covenant executed  
15 at any time.

16 (b) A restrictive covenant, easement, or similar restrictive or reversionary  
17 interest prohibited by subsection (a) of this section may be released by the  
18 owner of the real property interest subject to the covenant by recording a  
19 Certificate of Release of Certain Prohibited Covenants. The real property  
20 owner may record the certificate prior to recording a deed conveying the  
21 property or at any other time the owner discovers that the prohibited covenant

1 ~~exists. The certificate may be prepared without assistance of an attorney but~~  
2 ~~shall conform substantially to the following Certificate of Certain Prohibited~~  
3 ~~Covenants form:~~

4 ~~“CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED COVENANTS~~

5 ~~Town of Record: \_\_\_\_\_~~

6 ~~Date of Instrument containing prohibited covenant(s): \_\_\_\_\_~~

7 ~~Instrument Type: \_\_\_\_\_~~

8 ~~Deed Book \_\_\_\_\_ Page \_\_\_\_\_ or Plat Book \_\_\_\_\_ Page \_\_\_\_\_~~

9 ~~Name(s) of Current Owner(s): \_\_\_\_\_~~

10 ~~Real Property Description: \_\_\_\_\_~~

11 ~~The covenant contained in the above mentioned instrument is released from~~  
12 ~~the above described real property to the extent that it contains terms purporting~~  
13 ~~to restrict the ownership or use of the property as prohibited by 27 V.S.A.~~

14 ~~§ 546(a):~~

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

16 ~~Given under my/our hand(s) this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_~~

17 ~~\_\_\_\_\_~~

18 ~~\_\_\_\_\_~~

19 ~~(Current Owners)~~

20 ~~(1) For an acknowledgment in an individual capacity:~~

1 State of Vermont [County] of \_\_\_\_\_

2 This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

3 \_\_\_\_\_

4 Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_

5 Signature of notary public \_\_\_\_\_

6 Stamp [ \_\_\_\_\_ ]

7 Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

8 (2) For an acknowledgment in a representative capacity:

9 State of Vermont [County] of \_\_\_\_\_

10 This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

11 Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_ as \_\_\_\_\_

12 (type of authority, such as officer or trustee) of \_\_\_\_\_ (name of

13 party on behalf of whom record was executed).

14 Signature of notary public \_\_\_\_\_

15 Stamp [ \_\_\_\_\_ ]

16 Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

17 The clerk has satisfied the requirements of 32 V.S.A. § 1671.”

18 Sec. 3. 32 V.S.A. § 1671 is amended to read:

19 § 1671. TOWN CLERK

20 (a) For the purposes of this section, a “page” is defined as a single side of a

21 leaf of paper on which is printed, written, or otherwise placed information to

1 ~~be recorded or filed. The maximum covered area on a page shall be 7 1/2~~  
2 ~~inches by 14 inches. All letters shall be at least one sixteenth inch in height or~~  
3 ~~in at least eight point type. Unless otherwise provided by law, the fees to the~~  
4 ~~town clerks shall be as follows:~~

5 ~~(1) For recording a trust mortgage deed as provided in 24 V.S.A.~~  
6 ~~§ 1155, \$15.00 per page;~~

7 ~~\*\*\*~~

8 ~~(g) When a fee applies under this section, no fee shall be required for the~~  
9 ~~recordation of:~~

10 ~~(1) a Certificate of Release of Certain Prohibited Covenants pursuant to~~  
11 ~~27 V.S.A. § 546(b); or~~

12 ~~(2) a deed correction subject to 27 V.S.A. § 546(a).~~

13 Sec. 3. EFFECTIVE DATE

14 This act shall take effect on July 1, 2022.

15

16 (Committee vote: \_\_\_\_\_)

17

\_\_\_\_\_

18

Representative \_\_\_\_\_

19

FOR THE COMMITTEE