

1 **SENATE FLOOR VERSION**

2 April 4, 2023

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2288

6 By: Pfeiffer, Pae, and Roberts
7 of the House

8 and

9 Howard, Newhouse, and Young
10 of the Senate

11 [conveyances - discriminatory restrictive covenants
12 in real estate transactions - property deed tax
13 exemptions - codification - effective date]

14
15
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

20 A person who owns real property or an interest in real property
21 for which the title includes a recorded conveyance instrument
22 containing an illegal discriminatory restrictive **covenant** pursuant
23 to the Fair Housing Act, 42 U.S.C. Section 3601 et seq., or another
24 person with the **written and notarized** permission of the owner, may

1 declare that the discriminatory restrictive **covenant is** illegal and
2 unenforceable and should be removed. The declaration shall be filed
3 with the clerk of the county where the property is located.

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

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

16 **All** discriminatory restrictive covenants prohibited by Section 1
17 of this act may be declared illegal and unenforceable and considered
18 removed from the instrument by the owner of real property subject to
19 such restrictive covenants by recording a declaration to remove **the**
20 discriminatory restrictive covenants. The real property owner may
21 record such declaration:

22 1. Prior to recordation of a deed conveying real property to a
23 purchaser; or
24

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

3 Such declaration may be prepared without assistance of an
4 attorney, but such declaration to remove **the** discriminatory
5 restrictive covenants shall conform substantially to the following
6 form:

7 DECLARATION TO REMOVE DISCRIMINATORY RESTRICTIVE COVENANTS

8 County where property is located: _____

9 Date of Instrument containing discriminatory restrictive
10 covenants(s): _____

11 Instrument Type: _____

12 Instrument recorded in Book _____ Page _____

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

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

15 Real Property Description: _____

16 The discriminatory restrictive covenants contained in the above-
17 mentioned instrument **are** declared to be illegal and unlawful and
18 shall be considered removed from the instrument to the extent that
19 it contains terms purporting to restrict the ownership or use of the
20 property as prohibited by Section 1 of this act.

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

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

24 _____

1 _____
2 State of Oklahoma,)
3) ss.
4 _____ County.)
5 Before me, ____ in and for this state, on this ____ day of ____,
6 _____ personally appeared _____ to me known to be the
7 identical person(s) who executed the within and foregoing
8 instrument, and acknowledged to me that ____ executed the same as
9 ____ free and voluntary act and deed for the uses and purposes
10 therein set forth.

11 SECTION 3. AMENDATORY 68 O.S. 2021, Section 3202, is
12 amended to read as follows:

13 Section 3202. The tax imposed by Section 3201 of this title
14 shall not apply to:

- 15 1. Deeds recorded prior to the effective date of Sections 3201
16 through 3206 of this title;
- 17 2. Deeds which secure a debt or other obligation;
- 18 3. Deeds which, without additional consideration, confirm,
19 correct, modify or supplement a deed previously recorded;
- 20 4. Deeds between husband and wife, or parent and child, or any
21 persons related within the second degree of consanguinity, without
22 actual consideration therefor, deeds between any person and an
23 express revocable trust created by such person or such person's
24 spouse or deeds pursuant to which property is transferred from a

1 person to a partnership, limited liability company or corporation of
2 which the transferor or the transferor's spouse, parent, child, or
3 other person related within the second degree of consanguinity to
4 the transferor, or trust for primary benefit of such persons, are
5 the only owners of the partnership, limited liability company or
6 corporation. However, if any interest in the partnership, limited
7 liability company or corporation is transferred within one (1) year
8 to any person other than the transferor or the transferor's spouse,
9 parent, child, or other person related within the second degree of
10 consanguinity to the transferor, the seller shall immediately pay
11 the amount of tax which would have been due had this exemption not
12 been granted;

13 5. Tax deeds;

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

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

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

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

24

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

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

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

12 13. Any deed executed pursuant to a foreclosure proceeding in
13 which the grantee is the holder of a mortgage on the property being
14 foreclosed, or any deed executed pursuant to a power of sale in
15 which the grantee is the party exercising such power of sale or any
16 deed executed in favor of the holder of a mortgage on the property
17 in consideration for the release of the borrower from liability on
18 the indebtedness secured by such mortgage except as to cash
19 consideration paid; provided, however, the tax shall apply to deeds
20 in other foreclosure actions, unless otherwise hereinabove exempted,
21 and shall be paid by the purchaser in such foreclosure actions; ~~or~~

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

1 15. **Declarations** to remove discriminatory restrictive covenants
2 pursuant to Section 2 of this act.

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

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
5 April 4, 2023 - DO PASS AS AMENDED
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