

Fiscal Estimate Narratives

DOA 11/10/2023

LRB Number	23-4230/1	Introduction Number	AB-0444	Estimate Type	Original
Description declaring discriminatory restrictions in instruments that affect real property void and unenforceable and allowing an owner of real property to discharge and release such a discriminatory restriction					

Assumptions Used in Arriving at Fiscal Estimate

2023 Assembly Bill 444 concerns discriminatory restrictions on real estate instruments and the prohibition thereof. The bill would enable owners of real property to discharge and release such existing restrictions on a deed or instrument, as well as enabling civil action in certain cases, and provides guidelines for county registers of deeds regarding this process. It defines discriminatory restrictions as a "restriction, covenant, or condition that prohibits or restricts the ownership, transfer, encumbrance, rental, occupancy, or use of real property on the basis of being a member of a protected class", which is defined in current law under ss. 106.50 (1m) and (nm), Wis. Stats.

The bill would make void and unenforceable any discriminatory restrictions on existing deeds or other instruments affecting real property and would prohibit one from drafting, filing or recording with, or presenting an instrument including discriminatory restrictions. Owners of real property would also be enabled to discharge and release such a restriction by recording a certification with the register of deeds. Owners would be permitted to do so for several deeds or instruments in a single certification provided they include all required information for all affected real property in the certification. The bill provides a standard form as certification for discharge and release of a discriminatory restriction from the owner's property, which the Department is responsible for publishing on its website.

The bill would enable county registers of deeds to either reject an instrument for recording or filing that contains a discriminatory restriction or to obscure the prohibited restriction prior to recording or filing it so that it is no longer discernible on the instrument. Registers of deeds would also be required to include a notation on the real estate records index of any certification to discharge and release discriminatory restrictions on a deed.

Lastly, the bill would provide for grantees or beneficiaries of a deed to bring civil action for injunctive relief against the person who drafts a deed including such a restriction, awarding the plaintiff the costs of the action including reasonable attorney fees if the plaintiff prevails.

There is no anticipated fiscal impact to the Department under this bill. While it is the responsibility of the Department to make available the standard certification form on its website, the administrative cost of doing so is minimal and absorbable under current expenditure authority.

The Department does not have data at this time concerning the number of existing deeds with discriminatory restrictions that would potentially be sought for discharge and release, and so the impact on the workload and fee revenue for county registers of deeds is unknown. The local fiscal impact is therefore indeterminate.

Long-Range Fiscal Implications