

# ASSEMBLY, No. 5390

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**SYNOPSIS**

Concerns certain restrictive covenants on real property.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning discriminatory restrictive covenants in deeds  
2 and supplementing Title 46 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. A deed recorded on or after January 1, 2021 shall not  
8 contain a reference to the specific portion of a restrictive covenant  
9 purporting to restrict the ownership or use of real property as  
10 prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection  
11 g. of section 11 of P.L.1945, c.169 (C.10:5-12). A county clerk or a  
12 register of deeds and mortgages shall refuse to accept any deed  
13 submitted for recordation that references the specific portion of any  
14 such restrictive covenant. An attorney or title company preparing  
15 or submitting a deed for recordation shall ensure that the specific  
16 portion of such a restrictive covenant is not specifically referenced  
17 in the deed prior to the deed being submitted for recordation. A  
18 deed may include a general provision that states that the deed is  
19 subject to any and all covenants of record; however, such provisions  
20 shall not apply to the specific portion of a restrictive covenant  
21 purporting to restrict the ownership or use of the property as  
22 prohibited by section 4 of P.L.1945, c.169 (C.10:5-4) or subsection  
23 g. of section 11 of P.L.1945, c.169 (C.10:5-12).

24 Any deed that is recorded in the land records on or after January  
25 1, 2021 that mistakenly contains such a restrictive covenant shall  
26 nevertheless constitute a valid transfer of real property.

27

28 2. A restrictive covenant prohibited by section 4 of P.L.1945,  
29 c.169 (C.10:5-4) or subsection g. of section 11 of P.L.1945, c.169  
30 (C.10:5-12) may be released by the owner of the real property  
31 subject to the restrictive covenant by recording a “Certificate of  
32 Release of Certain Prohibited Covenants.” The real property owner  
33 may record such a certificate prior to recordation of a deed  
34 conveying real property to a purchaser, or when a real property  
35 owner discovers that such a prohibited covenant exists and chooses  
36 to affirmatively release it. The form of the certificate shall be  
37 promulgated by the Administrative Office of the Courts, and shall  
38 be available at the county office, or on the website, of the county  
39 clerk or register of deeds and mortgages, as appropriate to the  
40 county in which the real property is located. There shall be no  
41 filing fee, or any other fee, charged to the owner of a real property  
42 for the filing of this certificate.

43 The certificate promulgated by the Administrative Office of the  
44 Courts shall conform substantially to the following “Certificate of  
45 Release of Certain Prohibited Covenants” format:

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1 CERTIFICATE OF RELEASE OF CERTAIN PROHIBITED  
2 COVENANTS

3  
4 County of Record: \_\_\_\_\_

5  
6 Date of Deed Containing Prohibited Covenant: \_\_\_\_\_

7  
8 Deed Book: \_\_\_\_\_ Page: \_\_\_\_\_

9  
10 Name(s) of Grantor(s): \_\_\_\_\_

11  
12 Name(s) of Current Owner(s): \_\_\_\_\_

13  
14 Real Property Description: \_\_\_\_\_

15  
16 Brief Description of Prohibited Covenant: \_\_\_\_\_

17  
18 The covenant contained in the above-mentioned deed is released  
19 from the above-described real property to the extent that it contains  
20 terms purporting to restrict the ownership or use of the property as  
21 prohibited in section 4 of P.L.1945, c.169 (C.10:5-4).

22  
23 The undersigned is/are the legal owners of the property described  
24 herein.

25  
26 Given under my/our hand(s) this \_\_\_\_\_ day of \_\_\_\_\_,  
27 20\_\_.

28  
29 \_\_\_\_\_

30  
31 \_\_\_\_\_

32 (Current Owners)

33  
34 State of New Jersey  
35 County of \_\_\_\_\_

36  
37 Subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day  
38 of \_\_\_\_\_, 20\_\_.

39  
40 \_\_\_\_\_

41 Notary Public

42  
43 Notary Registration Number: \_\_\_\_\_

44  
45 My Commission Expires: \_\_\_\_\_

46  
47 3. This act shall take effect immediately.

STATEMENT

1  
2  
3 This bill concerns the use of restrictive covenants in deeds for  
4 real property that would restrict the ownership or use of real  
5 property as prohibited by sections 4 and 11 of the “Law Against  
6 Discrimination,” (LAD) P.L.1945, c.169 (C.10:5-4 and C.10:5-12).

7 Section 4 of the LAD provides that:

8 *All persons shall have the opportunity to obtain*  
9 *employment, and to obtain all the accommodations,*  
10 *advantages, facilities, and privileges of any place of*  
11 *public accommodation, publicly assisted housing*  
12 *accommodation, and other real property without*  
13 *discrimination because of race, creed, color, national*  
14 *origin, ancestry, age, marital status, affectional or*  
15 *sexual orientation, familial status, disability, liability*  
16 *for service in the Armed Forces of the United States,*  
17 *nationality, sex, gender identity or expression or source*  
18 *of lawful income used for rental or mortgage payments,*  
19 *subject only to conditions and limitations applicable*  
20 *alike to all persons. This opportunity is recognized as*  
21 *and declared to be a civil right.*

22 Subsection g. of section 11 of the LAD provides that it shall be  
23 an unlawful discrimination:

24 *g. For any person, including but not limited to,*  
25 *any owner, lessee, sublessee, assignee or managing*  
26 *agent of, or other person having the right of ownership*  
27 *or possession of or the right to sell, rent, lease, assign,*  
28 *or sublease any real property or part or portion thereof,*  
29 *or any agent or employee of any of these:*

30 *(1) To refuse to sell, rent, lease, assign, or sublease*  
31 *or otherwise to deny to or withhold from any person or*  
32 *group of persons any real property or part or portion*  
33 *thereof because of race, creed, color, national origin,*  
34 *ancestry, marital status, civil union status, domestic*  
35 *partnership status, pregnancy or breastfeeding, sex,*  
36 *gender identity or expression, affectional or sexual*  
37 *orientation, familial status, disability, liability for*  
38 *service in the Armed Forces of the United States,*  
39 *nationality, or source of lawful income used for rental*  
40 *or mortgage payments.*

41 This bill would require that a deed recorded on or after January  
42 1, 2021 shall not contain a reference to the specific portion of a  
43 restrictive covenant purporting to restrict the ownership or use of  
44 real property as prohibited by the LAD. The bill also requires a  
45 county clerk or a register of deeds and mortgages to refuse to accept  
46 any deed submitted for recordation that references the specific  
47 portion of any such restrictive covenant.

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1       The bill also provides a property owner the opportunity to  
2 release such a restrictive covenant by recording a “Certificate of  
3 Release of Certain Prohibited Covenants” with the county clerk, or  
4 register of deeds and mortgages, as appropriate, in the county  
5 wherein the real property is located. The real property owner may  
6 record such a certificate prior to recordation of a deed conveying  
7 real property to a purchaser, or when a real property owner  
8 discovers that such a prohibited covenant exists and chooses to  
9 affirmatively release it.

10       The provisions of this bill are based on a recently-enacted  
11 Virginia statute (Chapter 788, Laws of 2020, enacted April 6,  
12 2020).