

HOUSE No. 1762

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act for the removal of void restrictive covenants.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/17/2025</i>
<i>Samantha Montaño</i>	<i>15th Suffolk</i>	<i>4/16/2025</i>
<i>Hannah Bowen</i>	<i>6th Essex</i>	<i>7/21/2025</i>

HOUSE No. 1762

By Representative Holmes of Boston, a petition (accompanied by bill, House, No. 1762) of Russell E. Holmes relative to the removal of void restrictive covenants. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act for the removal of void restrictive covenants.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 114 of chapter 185 of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by striking out, in line 1, the word “No” and inserting in
3 place thereof the following words:- (a) No.

4 SECTION 2. Said Section 114 of said chapter 185, as so appearing, is hereby further
5 amended by inserting after the word “court”, in line 4, the following words:- or as otherwise
6 permitted pursuant to subsection (c).

7 SECTION 3. Said Section 114 of said chapter 185, as so appearing, is hereby further
8 amended by adding the following 3 subsections:-

9 (b) When a new original or transfer certificate is being issued by a registry district, the
10 districts shall review all restrictions, including, but not limited to, all restrictive covenants,
11 conditions, limitations and rights of entry or reverter, set forth expressly on the face of the
12 certificate of title to determine whether any such restriction violates section 23B of chapter 184;

13 provided, however, that a restriction is set forth expressly when the words of the restriction are
14 verbatim included in the text of the certificate of title.

15 (c) If, pursuant to subsection (b), a district identifies a restriction made void by section
16 23B of chapter 184, the district shall take action pursuant to this subsection to ensure that the
17 prohibited restriction is not carried forward.

18 (1) If the restrictions consist expressly, solely and unambiguously of terms made void by
19 said section 23B of said chapter 184, then, without the necessity of a proceeding under
20 subsection (a), the district shall, without order of or any further approval from the court and
21 without notice to any parties, as a matter of public policy: (A) prepare a new certificate or
22 memorandum without inclusion of the language prohibited and made void by said section 23B of
23 said chapter 184; and (ii) include a memorandum upon the certificate of title containing a
24 declaration citing the restrictive language and repudiating the offending clause for the purposes
25 of educating, engaging and asserting that such racially motivated housing policies are a part of
26 our past and that the commonwealth has created an affirmative response for residents to
27 acknowledge the history of the property they own in an effort to prevent repeating discriminatory
28 practices of the past and a commitment to remedy its consequences.

29 (2) If the restrictions made void by said section 23B of said chapter 184 are combined
30 with an allowed restriction or are not unambiguously made void in their entirety by said section
31 23B of said chapter 184 or if the district becomes aware of documents referenced in the
32 certificate, including in its memorandum of encumbrances by document number, recording
33 reference or otherwise, the district shall file a complaint under section 10C of chapter 240
34 seeking authority to amend the certificate or other appropriate order from the court.

35 (d) Annually, not later than June 1 , each registry district shall submit the number of
36 certificates amended pursuant to this section to the office of fair housing established in section
37 31 of chapter 23B for inclusion in its annual report pursuant to paragraph (2) of subsection (c) of
38 said section 31 of said chapter 23B.

39 SECTION 4. Section 10C of chapter 240 of the General Laws, as so appearing, is hereby
40 amended by striking out, in line 1, the word “Any” and inserting in place thereof the following
41 words:- (a) Any.

42 SECTION 5. Said section 10C of said chapter 240, as so appearing, is hereby further
43 amended by adding the following 2 subsections:-

44 (b) Pursuant to clause (k) of the first paragraph of section 1 of chapter 185 and section
45 114 of said chapter 185, an owner of land, the recorder, a register of deeds, including, but not
46 limited to, a register of deeds acting as assistant recorder of the land court, or other person
47 having an interest in said land may file a complaint with the land court, at no cost, requesting a
48 declaration that an instrument or document in the chain of title of said land contains a provision
49 that violates section 23B of chapter 184 and such provision is void.

50 (c) The land court may hear and determine a complaint filed under subsection (b) and,
51 after notice to any person adversely affected, as the court shall in its discretion determine, may
52 order the entry of a declaratory judgment, an amended certificate of title removing the prohibited
53 language, the entry or cancellation of a memorandum upon a certificate of title containing a
54 declaration citing the restrictive language and repudiating the offending clause, or any other
55 relief upon such terms as the court may consider proper and, upon judgment thereof, determine

56 that the land is free of such restriction; provided, however, that the new certificate shall be in rem
57 and operate directly upon the subject land and be binding upon all persons.