

# Wisconsin Among First States to Pass Legislation Allowing Real Property Owners to Proactively Discharge Discriminatory Restrictions Recorded Against Their Property

A Wisconsin law, 2023 Wisconsin Act 210, taking full effect in September 2024, will allow owners of real property in Wisconsin the ability to proactively release and discharge previously recorded discriminatory restrictions.

Discriminatory restrictions are restrictions, covenants or conditions that prohibit or restrict the ownership, transfer, encumbrance, rental, occupancy or use of real property on the basis of membership in a protected class. Historically, real property owners used discriminatory restrictions to permit only certain groups of people to purchase, lease, or otherwise use a given real property parcel.

Although discriminatory restrictions have been illegal and unenforceable for decades under Wisconsin and federal law, instruments (such as plats or deeds) previously recorded against many properties in the state of Wisconsin still contain discriminatory restrictions that are carried forward on subsequent land conveyances. 2023 Wisconsin Act 210 allows real property owners in Wisconsin to proactively file a release and discharge of these discriminatory restrictions.

## ***How do Wisconsin real property owners discharge and release discriminatory restrictions in instruments recorded against their real property?***

Pursuant to the new legislation, to discharge and release a discriminatory restriction in an instrument recorded against real property, a Wisconsin real property owner will need to file a certificate in the office of the register of deeds in the county in which the real property is located.

The certificate must contain:

- The title and document number of the instrument that contains the discriminatory restriction and, if given on the instrument, the volume and page where the instrument is filed or recorded;
- A full legal description of the applicable real property;
- The signature of the owner; and
- An acknowledgment or authentication by a notary public, a public officer

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entitled to administer oaths, or a member in good standing of the State Bar of Wisconsin.

2023 Wisconsin Act 210 provides a sample certificate form for Wisconsin real property owners to use and Wisconsin real property owners can begin filing certificates to discharge and release discriminatory restrictions beginning on September 1, 2024.

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