

1 § **-A Definitions.** "Transfer" means the sale, gift,
2 conveyances, assignment, inheritance, or other transfer of an
3 ownership interest in real property located in the State.

4 "Transfer fee" means a fee or charge required by a transfer
5 fee covenant and payable upon the transfer of a interest in real
6 property, or payable for the right to make or accept such
7 transfer, regardless of whether the fee or charge is a fixed
8 amount or is determined as a percentage of the value of the
9 property, the purchase price, or other consideration given for
10 the transfer. The following are not transfer fees for purposes
11 of this chapter:

12 (1) Any consideration payable by the grantee to the
13 grantor for the interest in real property being
14 transferred, including any subsequent additional
15 consideration for the property payable by the grantee
16 based upon any subsequent appreciation, development,
17 or sale of the property, including a separate mineral
18 estate and its appurtenant surface access rights.

19 (2) Any commission payable to a licensed real estate
20 broker for the transfer of real property pursuant to
21 an agreement between the broker and the grantor or the
22 grantee, including any subsequent additional



1 commission for that transfer payable by the grantor or
2 the grantee based upon any subsequent appreciation,
3 development, or sale of the property.

4 (3) Any interest, charges, fees, or other amounts payable
5 by a borrower to a lender pursuant to a loan secured
6 by a mortgage against real property, including, but
7 not limited to, any fee payable to the lender for
8 consenting to an assumption of the loan or a transfer
9 of the real property subject to the mortgage, and any
10 fees or charges payable to the lender for estoppel
11 letters or certificates.

12 (4) Any rent, reimbursement, charge, fee, or other amount
13 payable by a lessee to a lessor under a lease,
14 including, but not limited to, any fee payable to the
15 lessor for consenting to an assignment, subletting,
16 encumbrance, or transfer of the lease.

17 (5) Any consideration payable to the holder of an option
18 to purchase an interest in real property or the holder
19 of a right of first refusal or first offer to purchase
20 an interest in real property for waiving, releasing,
21 or not exercising the option or right upon the
22 transfer of the property to another person.



1 (6) Any tax, fee, charge, assessment, fine, or other
2 amount, payable to or imposed by a governmental
3 authority.

4 (7) Any fee, charge, assessment, fine, or other amount
5 payable to a homeowners', condominium, cooperative, or
6 property owners' association pursuant to a declaration
7 or covenant or law applicable to such association,
8 including, but not limited to, fees or charges payable
9 for estoppel letters or certificates issued by the
10 association or its authorized agent.

11 (8) Any fee, charge, assessment, dues, contribution, or
12 other amount pertaining to the purchase or transfer of
13 a club membership relating to real property owned by
14 the member, including, but not limited to, any amount
15 determined by reference to the value, purchase prices,
16 or other consideration given for the transfer of the
17 real property.

18 (9) Any payment required pursuant to an environmental
19 covenant.

20 "Transfer fee covenant" means a declaration or covenant
21 recorded against the title to real property means a declaration
22 or covenant recorded against the title to real property which



1 requires or purports to require the payment of a transfer fee to
2 the declarant or other person specified in the declaration or
3 covenant or to their successors or assigns upon a subsequent
4 transfer of an interest in the real property.

5 § -B Transfer fee covenants; prohibited. A

6 transfer fee covenant recorded in this state on or after July 1,
7 2009, does not run with the title to real property and is not
8 binding on or enforceable at law or in equity against any
9 subsequent owner, purchaser, or mortgagee of any interest in
10 real property as an equitable servitude or otherwise. Any liens
11 purporting to secure the payment of a transfer fee under a
12 transfer fee covenant that is recorded in this state on or after
13 July 1, 2009, are void and unenforceable. This section shall
14 not be construed in such a way as to presume that transfer fee
15 covenants or liens recorded in this state prior to July 1, 2009
16 are valid and enforceable.

17 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:

John L. ...

[Signature]
[Signature]
Jim Ward



Ray J. Hanter
Sachin Maramoto

Bob Adams
Marilyn Mayson

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Report Title:

Fees

Description:

Prohibits transfer fee covenants in real property transactions.

