
A BILL FOR AN ACT

RELATING TO PRIVATE TRANSFER FEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1	SECTION 1. Chapter 501, Hawaii Revised Statutes, is
2	amended by adding a new section to the part entitled
3	"Miscellaneous Provisions" to be appropriately designated and to
4	read as follows:
5	" <u>§501-</u> Prohibition of transfer fees. (a) A deed
6	restriction or other covenant running with the land applicable
7	to the transfer of real property that requires a transferee of
8	real property or the transferee's heirs, successors, or assigns,
9	to pay a fee in connection with a future transfer of the
10	property to a declarant or other person imposing the deed
11	restriction or covenant on the property or a third party
12	designated by a transferor of the property is prohibited. A
13	deed restriction or other covenant running with the land that
14	violates this section or a lien purporting to encumber the land
15	to secure a right under a deed restriction or other covenant
16	running with the land that violates this section is void and
17	unenforceable.



1	(b)	This section shall not apply to the following fees or
2	<u>charges</u> re	equired by a deed restriction or other covenant running
3	with the I	land in connection with the transfer of real property:
4	(1)	Any interest, charge, fee, or other amount payable by
5		a borrower to a lender pursuant to a loan secured by
6		real property, including any fee payable to the lender
7		for consenting to an assumption of the loan or
8		transfer of the real property, for providing an
9		estoppel letter or certificate, or for any shared
10		appreciation interest or profit participation or other
11		consideration payable to the lender in connection with
12		the loan;
13	(2)	Any fee, charge, assessment or fine payable to a real
14		property homeowners', condominium, cooperative, or
15		property owners' association pursuant to a
16		declaration, covenant, or law applicable to an
17		association, including a fee or charge to change the
18		association's records as to the owner of the real
19		property or to provide an estoppel letter or
20		certificate;
21	(3)	Any fee or charge payable to a landlord under a lease
22		of real property, including a fee or charge payable to
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1		the	landlord for consenting to an assignment of the
2		leas	e, for providing an estoppel letter or
3		cert	ificate, or to change the landlord's records as to
4		the	owner of the lessee's interest in the lease;
5	(4)	Any	consideration payable to the holder of an option
6		to p	urchase an interest in real property or the holder
7		of a	right of first refusal or first offer to purchase
8		an i	nterest in real property for waiving, releasing,
9		<u>or n</u>	ot exercising the option or right upon transfer of
10		the	real property to another person;
11	(5)	Any	fee, charge, shared appreciation interest, profit
12		part	icipation, or other consideration, payable by:
13		(A)	A person engaged in the business of the
14			development of real property for resale to others
15			and not for the person's own use or the use of
16			the person's parent, affiliates, subsidiaries, or
17			relatives; or
18		<u>(B)</u>	A person who acquires the real property for the
19			purpose of engaging in the business of the
20			development of real property for resale to others
21			or for the purpose of reselling the real property
22			to a person engaged in the business of the
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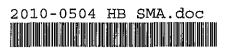
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1	development of real property for resale to
2	others; or
3	(6) Any fee or charge payable to a government entity."
4	SECTION 2. Chapter 502, Hawaii Revised Statutes, is
5	amended by adding a new section to the part entitled "Other
6	Provisions" to be appropriately designated and to read as
7	follows:
8	" <u>\$502-</u> Prohibition of transfer fees. (a) A deed
9	restriction or other covenant running with the land applicable
10	to the transfer of real property that requires a transferee of
11	real property or the transferee's heirs, successors, or assigns,
12	to pay a fee in connection with a future transfer of the
13	property to a declarant or other person imposing the deed
14	restriction or covenant on the property or a third party
15	designated by a transferor of the property is prohibited. A
16	deed restriction or other covenant running with the land that
17	violates this section or a lien purporting to encumber the land
18	to secure a right under a deed restriction or other covenant
19	running with the land that violates this section is void and
20	unenforceable.

1	(b)	This section shall not apply to the following fees or
2	<u>charges</u> re	equired by a deed restriction or other covenant running
3	with the 1	land in connection with the transfer of real property:
4	(1)	Any interest, charge, fee, or other amount payable by
5		a borrower to a lender pursuant to a loan secured by
6		real property, including any fee payable to the lender
7		for consenting to an assumption of the loan or
8		transfer of the real property, for providing an
9		estoppel letter or certificate, or for any shared
10		appreciation interest or profit participation or other
11		consideration payable to the lender in connection with
12		the loan;
13	(2)	Any fee, charge, assessment or fine payable to a real
14		property homeowners', condominium, cooperative, or
15		property owners' association pursuant to a
16		declaration, covenant, or law applicable to an
17		association, including a fee or charge to change the
18		association's records as to the owner of the real
19		property or to provide an estoppel letter or
20		certificate;
21	(3)	Any fee or charge payable to a landlord under a lease
22		of real property, including a fee or charge payable to
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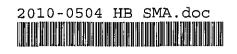
1		the	landlord for consenting to an assignment of the
2		lease	e, for providing an estoppel letter or
3		<u>cert</u>	ificate, or to change the landlord's records as to
4		the d	owner of the lessee's interest in the lease;
5	(4)	Any o	consideration payable to the holder of an option
6		to pi	urchase an interest in real property or the holder
7		<u>of a</u>	right of first refusal or first offer to purchase
8		an i	nterest in real property for waiving, releasing,
9		or no	ot exercising the option or right upon transfer of
10		the :	real property to another person;
11	(5)	Any	fee, charge, shared appreciation interest, profit
12		nort	icipation, or other consideration, payable by:
**		part.	respacion, or other consideration, payable by:
13		(A)	A person engaged in the business of the
13			A person engaged in the business of the
13 14			A person engaged in the business of the development of real property for resale to others
13 14 15			A person engaged in the business of the development of real property for resale to others and not for the person's own use or the use of
13 14 15 16			A person engaged in the business of the development of real property for resale to others and not for the person's own use or the use of the person's parent, affiliates, subsidiaries, or
13 14 15 16 17		<u>(A)</u>	A person engaged in the business of the development of real property for resale to others and not for the person's own use or the use of the person's parent, affiliates, subsidiaries, or relatives; or
13 14 15 16 17 18		<u>(A)</u>	A person engaged in the business of the development of real property for resale to others and not for the person's own use or the use of the person's parent, affiliates, subsidiaries, or relatives; or A person who acquires the real property for the
13 14 15 16 17 18 19		<u>(A)</u>	A person engaged in the business of the development of real property for resale to others and not for the person's own use or the use of the person's parent, affiliates, subsidiaries, or relatives; or A person who acquires the real property for the purpose of engaging in the business of the



1	development of real property for resale to
2	others; or
3	(6) Any fee or charge payable to a government entity."
4	SECTION 3. New statutory material is underscored.
5	SECTION 4. This Act shall take effect on July 1, 2010.
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	INTRODUCED BY:

JAN 2 1 2010

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Report Title: Real Property; Transfer Fees

Description:

Prohibits the imposition of fees for a future transfer of real property. Specifies exceptions.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

