



General Assembly

**Substitute Bill No. 6510**

January Session, 2011

\* \_\_\_\_\_HB06510INS\_\_031011\_\_\_\_\_\*

**AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

2 (1) "Person" means an individual, corporation, limited liability  
3 company, partnership, association, trustee or other entity capable of  
4 holding an interest in real property or any combination thereof;

5 (2) (A) "Private transfer fee" means a fee or charge payable (i) upon  
6 the conveyance and subsequent conveyance of an interest in real  
7 property located in this state, or (ii) for the right to make or accept such  
8 conveyance;

9 (B) "Private transfer fee" does not include:

10 (i) Any consideration payable by a grantee to a grantor for the  
11 conveyance of an interest in real property located in this state,  
12 including any subsequent consideration payable by such grantee for  
13 such real property based on subsequent appreciation, development or  
14 sale of such real property, provided such subsequent consideration is  
15 payable on a one-time basis and the obligation to pay such  
16 consideration does not bind successors in title to such real property.  
17 For purposes of this subparagraph, "real property" includes a mineral

18 estate, as defined in section 47-330 of the general statutes;

19 (ii) Any commission payable to a real estate broker or a real estate  
20 salesperson for the sale of real property located in this state pursuant  
21 to a contract or agreement between such broker or salesperson and a  
22 grantee or grantor, including any subsequent commission payable by  
23 such grantee or grantor for such real property based on subsequent  
24 appreciation, development or sale of such real property;

25 (iii) Any interest, fee, charge or other amount payable by a borrower  
26 to a lender pursuant to a loan secured by a mortgage against real  
27 property located in this state, including any fee payable to such lender  
28 for consenting to an assumption of such loan or conveyance of such  
29 real property subject to such mortgage, any fee or charge payable to  
30 such lender for an estoppel letter or certificate issued by such lender,  
31 and any shared appreciation interest, profit participation or other  
32 consideration payable to the lender in connection with such loan;

33 (iv) Any rent, reimbursement, fee, charge or other amount payable  
34 by a lessee to a lessor, including any fee or charge payable to such  
35 lessor for consenting to an assignment, sublease or encumbrance of a  
36 rental agreement or lease;

37 (v) Any consideration payable to the holder of an option to  
38 purchase an interest in real property or the holder of a right of first  
39 refusal or first offer to purchase an interest in real property located in  
40 this state, for such holder's waiver, release or nonexercise of such  
41 option or right;

42 (vi) Any tax, assessment, fine, fee, charge or other amount payable  
43 to or imposed by a governmental entity;

44 (vii) Any dues, assessment, fine, contribution, fee, charge or other  
45 amount payable to an association or a unit owners' association  
46 organized under chapter 828 of the general statutes, pursuant to any  
47 declaration, covenant, law, association bylaw, association rule or  
48 association regulation, including a fee or charge payable to such

49 association for an estoppel letter or certificate issued by such  
50 association or its authorized agent;

51 (viii) Any dues, assessment, fine, contribution, fee, charge or other  
52 amount imposed by a declaration or covenant encumbering a  
53 municipality or a county or any combination thereof or a  
54 neighborhood or other area, irrespective of boundaries or political  
55 subdivision, in this state, and payable solely to an organization that is  
56 tax exempt pursuant to 26 USC 501(c) for the purpose of supporting  
57 cultural, educational, charitable, recreational, environmental,  
58 conservation or other similar activities that benefit such municipality,  
59 county, neighborhood or other area; or

60 (ix) Any dues, assessment, contribution, fee, charge or other amount  
61 payable for the purchase or transfer of a club membership related to  
62 real property located in this state.

63 (3) "Private transfer fee obligation" means an obligation arising  
64 under a declaration or a covenant recorded against the title to real  
65 property located in this state or under any contractual agreement or  
66 promise, whether or not recorded, that requires or purports to require  
67 the payment of a private transfer fee upon a conveyance or a  
68 subsequent conveyance of an interest in such real property.

69 (b) On and after the effective date of this section, no person shall  
70 impose a private transfer fee obligation. Any such obligation imposed  
71 on and after said date and any agreement that violates the provisions  
72 of this subsection shall be void and unenforceable.

73 (c) Each contract for the sale of real property located in this state  
74 that is encumbered by a private transfer fee obligation imposed prior  
75 to the effective date of this section shall include a provision disclosing  
76 the existence of such obligation, a description of such obligation and a  
77 statement that private transfer fee obligations are subject to the  
78 provisions of this section. Any such contract that violates the  
79 provisions of this subsection shall be void and unenforceable and no  
80 purchaser under such contract shall be liable to the seller for damages

81 under such contract. A purchaser under a contract that is void and  
82 unenforceable under this subsection shall be entitled to the return of all  
83 deposits made by such purchaser in connection with the sale of such  
84 real property.

85 (d) (1) For each private transfer fee obligation imposed prior to the  
86 effective date of this section, the person to which such fee was or is  
87 paid shall record against the title of such real property, prior to  
88 December 31, 2011, in the land records of the town within which such  
89 real property is located, a separate document entitled, in not less than  
90 fourteen-point bold type, "Notice of Private Transfer Fee Obligation"  
91 that includes the following information:

92 (A) The dollar amount of such fee if such fee is a flat amount, the  
93 percentage of the sales price that constitutes the amount of such fee or  
94 such other method by which such fee is calculated;

95 (B) If such real property is residential, actual dollar-cost examples of  
96 such fee for a home priced at two hundred fifty thousand dollars, five  
97 hundred thousand dollars and seven hundred fifty thousand dollars;

98 (C) The date or circumstances under which such obligation expires,  
99 if any;

100 (D) The purpose for which the funds from such fee will be used;

101 (E) The name of the person to which such fee was or is paid and the  
102 specific contact information for where such fee was or is sent;

103 (F) The acknowledged signature of the person to which such fee was  
104 or is paid; and

105 (G) The legal description of such real property encumbered by such  
106 obligation.

107 (2) The person to which such fee was or is paid may file an  
108 amendment to the notice of changes to the contact information for such  
109 person, provided such amendment includes the recording information

110 of the notice and the legal description of such real property  
111 encumbered by such obligation.

112 (e) (1) Real property located in this state that is encumbered by a  
113 private transfer fee obligation may become unencumbered by such  
114 obligation if:

115 (A) The person to which such fee was or is paid fails to comply with  
116 all the requirements of subdivision (1) of subsection (d) of this section  
117 prior to December 31, 2011; or

118 (B) A grantor of such real property requests in writing, to the person  
119 to which the private transfer fee was or is paid and the address shown  
120 in the contact information of the notice required under subdivision (1)  
121 of subsection (d) of this section, a statement showing the private  
122 transfer fee amount that is payable upon the conveyance of such real  
123 property and such person fails to provide such statement in writing  
124 within thirty days of the date of the grantor's written request.

125 (2) In such event, a grantor of such real property shall:

126 (A) Record an affidavit conforming to the requirements of section  
127 47-12a of the general statutes in the land records of the town within  
128 which such real property is located; and

129 (B) Upon the filing of such affidavit, not be subject to such  
130 obligation. Such grantor may thereafter convey such real property  
131 without paying the private transfer fee and such real property shall  
132 thereafter be conveyed free and clear of such obligation and fee.

133 (3) When an affidavit has been recorded as set forth in subdivision  
134 (2) of this subsection, it shall be admissible as prima facie evidence that  
135 (A) the grantor sent a written request to the person to whom the  
136 private transfer fee was or is paid for a statement showing the private  
137 transfer fee amount that is payable upon the conveyance of such real  
138 property, and (B) such person failed to provide such statement in  
139 writing within thirty days of the date of the grantor's written request.

140 (f) Violation of this section shall constitute an unfair or deceptive act  
141 or practice under subsection (a) of section 42-110b of the general  
142 statutes. Where an agent acts on behalf of a principal to impose a  
143 private transfer fee obligation, liability shall be assessed to the  
144 principal.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

**INS**      *Joint Favorable Subst.*