



CONNECTICUT ASSOCIATION OF  
**REALTORS**<sup>®</sup> INC.

**Statement on**  
**S.B. 859: An Act Concerning the Regulation of Private Transfer Fees**  
**SUPPORT**

Submitted to the Joint Committee on Insurance and Real Estate  
February 14, 2013

**By Eugene A. Marconi, General Counsel**  
**Connecticut Association of REALTORS<sup>®</sup>, Inc.**

Good afternoon, Chairman Crisco, Chairman Megna, and members of the committee. My name is Eugene Marconi and I am the general counsel of the Connecticut Association of REALTORS<sup>®</sup>. I have the privilege of testifying on behalf of the Association's nearly 15,000 members in support of S.B. No. 859 an Act Concerning the Regulation of Private Transfer Fees. The Association thanks the Chairs and the Committee for raising this bill and supports the bill.

Private transfer fees are a Wall Street "financial innovation". The private transfer fee is imposed by a developer as part of the deed covenants and restrictions in a real estate development. This particular deed covenant requires the payment of a percentage of the sales price to the developer or the developer's assignee whenever property in the development is transferred during the term of the deed covenant. The developer assigns the rights to this income stream to a financial firm in return for a lump sum payment. The deed covenants creating the transfer fee typically have a life span of 99 years.

Private transfer fees of this nature are legally questionable since they do not "touch and concern" or benefit the subject land itself, and in some states, they have been successfully challenged on that basis. Individual home owners however, do not have the wherewithal to challenge these fees in court, and the fees serve only as an additional,

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private conveyance tax on property. Further, since these fees are often buried in multi-page declarations of covenants and restrictions, they can be a big surprise to a homeowner or the homeowner's heirs when it comes time to sell the property. Finally, the fees do nothing to improve or maintain the development or any amenities or otherwise inure to the benefit of the owners in the development. For these reasons, FHFA, the conservator for Fannie Mae and Freddie Mac, has refused to finance transactions in developments where the fees exist, and 41 states have already banned or severely restricted these fees. Connecticut should be number 42.

Thank you for your consideration and I look forward to any questions or comments the committee may have.



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