



General Assembly

January Session, 2013

Raised Bill No. 859

LCO No. 2645

* SB00859INS__022013__*

Referred to Committee on INSURANCE AND REAL ESTATE

Introduced by:
(INS)

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 47-33o 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 offered or entered into on or after the effective date
74 of this section for the sale of real property located in this state that is
75 encumbered by a private transfer fee obligation imposed prior to the
76 effective date of this section shall include a provision disclosing the

77 existence of such obligation, a description of such obligation and a
78 statement that private transfer fee obligations are subject to the
79 provisions of this section. Any such contract that violates the
80 provisions of this subsection shall be void and unenforceable and no
81 purchaser under such contract shall be liable to the seller for damages
82 under such contract. A purchaser under a contract that is void and
83 unenforceable under this subsection shall be entitled to the return of all
84 deposits made by such purchaser in connection with the sale of such
85 real property.

86 (d) (1) For each private transfer fee obligation imposed prior to the
87 effective date of this section, the person to which such fee was or is
88 paid shall record against the title of such real property, prior to
89 December 31, 2013, in the land records of the town within which such
90 real property is located, a separate document entitled, in not less than
91 fourteen-point bold type, "Notice of Private Transfer Fee Obligation"
92 that includes the following information:

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

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

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

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

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

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

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

107 obligation.

108 (2) The person to which such fee was or is paid may file an
109 amendment to the notice of changes to the contact information for such
110 person, provided such amendment includes the recording information
111 of the notice and the legal description of such real property
112 encumbered by such obligation.

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

116 (A) The person to which such fee was or is paid fails to comply with
117 all the requirements of subdivision (1) of subsection (d) of this section
118 prior to December 31, 2013; or

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

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

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

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

134 (3) When an affidavit has been recorded as set forth in subdivision
135 (2) of this subsection, it shall be admissible as prima facie evidence that
136 (A) the grantor sent a written request to the person to whom the

137 private transfer fee was or is paid for a statement showing the private
138 transfer fee amount that is payable upon the conveyance of such real
139 property, and (B) such person failed to provide such statement in
140 writing within thirty days of the date of the grantor's written request.

141 (f) Violation of this section shall constitute an unfair or deceptive act
142 or practice under subsection (a) of section 42-110b of the general
143 statutes. Where an agent acts on behalf of a principal to impose a
144 private transfer fee obligation, liability shall be assessed to the
145 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*