



Senate Bill No. 859

Public Act No. 13-229

AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES.

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

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

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

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

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

(i) Any consideration payable by a grantee to a grantor for the conveyance of an interest in real property located in this state, including any subsequent consideration payable by such grantee for such real property based on subsequent appreciation, development or sale of such real property, provided such subsequent consideration is payable on a one-time basis and the obligation to pay such consideration does not bind successors in title to such real property.

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For purposes of this subparagraph, "real property" includes a mineral estate, as defined in section 47-33o of the general statutes;

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

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

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

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

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

(vii) Any dues, assessment, fine, contribution, fee, charge or other amount payable to an association or a unit owners' association

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organized under chapter 828 of the general statutes, pursuant to any declaration, covenant, law, association bylaw, association rule or association regulation, including a fee or charge payable to such association for an estoppel letter or certificate issued by such association or its authorized agent;

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

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

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

(b) On and after the effective date of this section, no person shall impose a private transfer fee obligation. Any such obligation imposed on and after said date and any agreement that violates the provisions of this subsection shall be void and unenforceable. Any person aggrieved by the imposition of a private transfer fee in violation of this subsection may bring a civil action for damages in the Superior Court.

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(c) Each contract offered or entered into on or after the effective date of this section for the sale of real property located in this state that is encumbered by a private transfer fee obligation imposed prior to the effective date of this section shall include a provision disclosing the existence of such obligation, a description of such obligation and a statement that private transfer fee obligations are subject to the provisions of this section. Any such contract that violates the provisions of this subsection shall be void and unenforceable and no purchaser under such contract shall be liable to the seller for damages under such contract. A purchaser under a contract that is void and unenforceable under this subsection shall be entitled to the return of all deposits made by such purchaser in connection with the sale of such real property.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Record an affidavit conforming to the requirements of section 47-12a of the general statutes in the land records of the town within

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which such real property is located; and

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

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

Approved June 24, 2013