
A BILL FOR AN ACT

RELATING TO RESIDENTIAL REAL PROPERTY.

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 be appropriately designated
3 and to read as follows:
4 "§501- Prohibition of transfer fees; covenants. (a)
5 No deed restriction or other covenant running with the land
6 applicable to the transfer of residential real property shall
7 require a transferee of residential real property, or the
8 transferee's heirs, successors, or assigns, to pay a declarant
9 or other person imposing the deed restriction or covenant on the
10 property or a third party designated by a transferor of the
11 property a fee in connection with a future transfer of the
12 property. A deed restriction or other covenant running with the
13 land that violates this section, a lien purporting to encumber
14 the land to secure a right under a deed restriction, or another
15 covenant running with the land that violates this section is
16 void and unenforceable.

17 (b) This section shall not apply to any of the following
18 fees or charges required by a deed restriction or other covenant

1 running with the land in connection with the transfer of
2 residential real property:

3 (1) Any interest, charge, fee, or other amounts payable by
4 a borrower to a lender pursuant to a loan secured by
5 residential real property, including any fee payable
6 to the lender for consenting to an assumption of the
7 loan or transfer of the residential real property, for
8 providing an estoppel letter or certificate, or for
9 any shared appreciation interest or profit
10 participation or other consideration payable to the
11 lender in connection with the loan;

12 (2) Any fee or charge payable to a residential real
13 property homeowners', condominium, cooperative, or
14 property owners' association, pursuant to a
15 declaration, covenant, or law applicable to the
16 association, including a fee or charge to change the
17 association's records as to the owner of the
18 residential real property or to provide an estoppel
19 letter or certificate;

20 (3) Any fee or charge payable to a landlord under a lease
21 of residential real property, including a fee or
22 charge payable to the landlord for consenting to an

1 assignment of the lease, for providing an estoppel
2 letter or certificate, or to change the landlord's
3 records as to the owner of the lessee's interest in
4 the lease;

5 (4) Any consideration payable to the holder of an option
6 to purchase an interest in residential real property
7 or the holder of a right of first refusal or first
8 offer to purchase an interest in residential real
9 property for waiving, releasing, or not exercising the
10 option or right upon transfer of the residential real
11 property to another person; or

12 (5) Any fee or charge payable to a government entity.

13 (c) As used in this section, unless the context otherwise
14 requires, "residential real property" means fee simple or
15 leasehold property on which is currently situated:

16 (1) One to four dwelling units; or

17 (2) A residential condominium or cooperative apartment
18 primarily used for occupancy as a residence.

19 (d) The prohibition on transfer fees as set forth in this
20 section shall not apply to deed restrictions or other covenants
21 running with the land made prior to July 1, 2009."

1 SECTION 2. Chapter 502, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 **"§502- Prohibition of transfer fees; covenants. (a)**
5 No deed restriction or other covenant running with the land
6 applicable to the transfer of residential real property shall
7 require a transferee of residential real property, or the
8 transferee's heirs, successors, or assigns, to pay a declarant
9 or other person imposing the deed restriction or covenant on the
10 property or a third party designated by a transferor of the
11 property a fee in connection with a future transfer of the
12 property. A deed restriction or other covenant running with the
13 land that violates this section, a lien purporting to encumber
14 the land to secure a right under a deed restriction, or another
15 covenant running with the land that violates this section is
16 void and unenforceable.

17 (b) This section shall not apply to any of the following
18 fees or charges required by a deed restriction or other covenant
19 running with the land in connection with the transfer of
20 residential real property:

21 (1) Any interest, charge, fee, or other amounts payable by
22 a borrower to a lender pursuant to a loan secured by

- 1 residential real property, including any fee payable
2 to the lender for consenting to an assumption of the
3 loan or transfer of the residential real property, for
4 providing an estoppel letter or certificate, or for
5 any shared appreciation interest or profit
6 participation or other consideration payable to the
7 lender in connection with the loan;
- 8 (2) Any fee or charge payable to a residential real
9 property homeowners', condominium, cooperative, or
10 property owners' association, pursuant to a
11 declaration, covenant, or law applicable to the
12 association, including a fee or charge to change the
13 association's records as to the owner of the
14 residential real property or to provide an estoppel
15 letter or certificate;
- 16 (3) Any fee or charge payable to a landlord under a lease
17 of residential real property, including a fee or
18 charge payable to the landlord for consenting to an
19 assignment of the lease, for providing an estoppel
20 letter or certificate, or to change the landlord's
21 records as to the owner of the lessee's interest in
22 the lease;

1 (4) Any consideration payable to the holder of an option
2 to purchase an interest in residential real property
3 or the holder of a right of first refusal or first
4 offer to purchase an interest in residential real
5 property for waiving, releasing, or not exercising the
6 option or right upon transfer of the residential real
7 property to another person; or

8 (5) Any fee or charge payable to a government entity.

9 (c) As used in this section, unless the context otherwise
10 requires, "residential real property" means fee simple or
11 leasehold property on which is currently situated:

12 (1) One to four dwelling units; or

13 (2) A residential condominium or cooperative apartment
14 primarily used for occupancy as a residence.

15 (d) The prohibition on transfer fees as set forth in this
16 section shall not apply to deed restrictions or other covenants
17 running with the land made prior to July 1, 2009."

18 SECTION 3. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on January 1, 2046.

Report Title:

Residential Real Property; Prohibition on Transfer Fees

Description:

Prohibits residential real property transfer fees required by a deed restriction or covenant, with certain exceptions. Takes effect January 1, 2046. (SD1)