

ACT 42

H.B. NO. 998

A Bill for an Act Relating to Private Transfer Fees.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that Act 169, Session Laws of Hawaii 2010, temporarily prohibited the inclusion in a deed of a restriction or other covenant running with the land that requires a transferee of real property to pay a fee in connection with a future transfer of the property.

Prior to Act 169, there was no regulation over the imposition of private transfer fees, no limitation on the application of the fees, and no accountability or oversight of the recipients of the fees. To date, a total of thirty-six states have either banned or placed conditions on this practice.

The legislature further finds that at the federal level, the Federal Housing Finance Agency has implemented final rules limiting the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal Home Loan Banks from dealing in mortgages on properties encumbered by certain types of private transfer fee covenants and in certain related securities. Similar to Act 169, the Federal Housing Finance Agency final rule excludes private transfer fees paid to homeowner associations, condominiums, cooperatives, and certain tax-exempt organizations that use private transfer fee proceeds to benefit the property.

The purpose of this Act is to permanently prohibit private transfer fees by eliminating the sunset date of Act 169.

SECTION 2. Act 169, Session Laws of Hawaii 2010, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon its approval~~[and shall be repealed on June 30, 2015].~~”

SECTION 3. Statutory material to be repealed is bracketed and stricken.

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SECTION 4. This Act shall take effect upon its approval.
(Approved April 23, 2013.)