

REAL PROPERTY - NOTICE OF TRANSFER

FEES

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca D. Lockhart

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts a provision relating to the disclosure of transfer fees on real property.

Highlighted Provisions:

This bill:

- ▶ defines terms, including "transfer fee" and "transfer fee covenant";
- ▶ provides that a transfer fee covenant is void and unenforceable unless a notice of transfer fee is also submitted for recording; and
- ▶ provides requirements for a notice of transfer fee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-1-46, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-1-46** is enacted to read:

57-1-46. Transfer fee covenants -- Requirements for recording notice of transfer



28 **fee covenant -- Transfer fee covenant void unless a notice of transfer fee covenant is**
29 **recorded.**

30 (1) As used in this section:

31 (a) "Affected property" means the real property that is subject to a transfer fee
32 covenant.

33 (b) "Applicable county recorder" means the recorder of the county in which affected
34 property is located.

35 (c) "Existing transfer fee covenant" means a transfer fee covenant recorded in the
36 office of the applicable county recorder before May 11, 2010.

37 (d) "Transfer fee" means a fee or charge required to be paid in connection with or as a
38 result of a transfer of real property.

39 (e) "Transfer fee covenant":

40 (i) means a covenant, restriction, or agreement:

41 (A) affecting real property; and

42 (B) that obligates a future buyer or seller of the real property, other than a person who
43 is a party to the covenant, restriction, or agreement, to pay a transfer fee; and

44 (ii) does not include an obligation imposed by:

45 (A) a court judgment, order, or decree; or

46 (B) the federal government or a state or local government entity.

47 (2) (a) An existing transfer fee covenant for which a notice described in Subsection (3)
48 is not recorded in the office of the applicable county recorder before January 1, 2011, is void
49 and unenforceable.

50 (b) A transfer fee covenant recorded on or after May 11, 2010, is void and
51 unenforceable unless, at the time the document containing the transfer fee covenant is
52 submitted for recording, a notice described in Subsection (3) is also submitted for recording in
53 the office of each applicable county recorder.

54 (3) Each notice required under Subsection (2) shall:

55 (a) be titled, in at least 14-point boldface type, "Payment of Transfer Fee Required";

56 (b) state:

57 (i) the name of each owner of the affected property;

58 (ii) the legal description and tax identification number of the affected property;

59 (iii) the dollar amount or, if applicable, the percentage of sales price, constituting the
60 transfer fee required under the transfer fee covenant;

61 (iv) if the affected property is residential, actual dollar-cost examples of the amount of
62 the transfer fee for property priced at \$250,000, \$500,000, and \$750,000; and

63 (v) if applicable, the date on which or circumstances under which the transfer fee
64 covenant expires; and

65 (c) contain the signature of each person or entity entitled to any of the transfer fee, or
66 the person or entity's authorized representative.

Legislative Review Note
as of 1-29-10 10:47 AM

Office of Legislative Research and General Counsel

H.B. 280 - Real Property - Notice of Transfer Fees

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill may affect some property owners who are subject to transfer fee covenants.
County recorders could see some increase in workload from additional recording of documents.
