

B-Engrossed
House Bill 2481

Ordered by the Senate May 26
Including House Amendments dated March 19 and Senate Amendments
dated May 26

Sponsored by Representative HOLVEY; Representative WINGARD (at the request of Oregon Association of Realtors)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Prohibits agreement for transfer of real property that reserves right to payment or profit upon, or as condition or result of, future transfer of fee simple interest in property.]

[Prohibits servitude on real property that reserves right to payment or profit upon, or as condition or result of, future transfer of fee simple interest in property.]

Makes declaration or covenant that requires payment to specified person upon future transfer of fee simple interest in real property void. Prohibits inclusion of such declaration or covenant in instrument that transfers fee simple right.

Creates exceptions.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to transfers of real property interests; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) An instrument conveying, or contracting to convey, a fee simple interest**
5 **in real property may not cause, or purport to cause, a declaration or covenant to be filed**
6 **or recorded against the title to the real property if the declaration or covenant requires, or**
7 **purports to require, the payment of a fee, commission or other payment to the declarant or**
8 **to another person specified in the declaration or covenant, or to the declarant's or other**
9 **person's successors or assigns, upon a transfer of a fee simple interest in the property.**

10 **(2) A declaration or covenant that requires, or purports to require, the payment of a fee,**
11 **commission or other payment upon the transfer of a fee simple interest in real property to**
12 **the declarant or other person specified in the declaration or covenant, or to the declarant's**
13 **or other person's successors or assigns, upon a transfer of a fee simple interest in the**
14 **property or that otherwise violates subsection (1) of this section, is void.**

15 **(3) Subsections (1) and (2) of this section do not apply to the following:**

16 **(a) An instrument conveying or contracting to convey a fee simple interest in real prop-**
17 **erty that provides for any consideration payable by a grantee to a grantor for the interest**
18 **in real property being transferred, including but not limited to any subsequent additional**
19 **consideration for the property payable by the grantee based upon any subsequent appreci-**
20 **ation, development or sale of the property.**

21 **(b) A requirement in a mortgage loan agreement for the payment of mortgage principal,**
22 **interest and fees upon sale of the property by the mortgagee.**

23 **(c) A limited liability company, limited liability partnership, corporation, joint venture**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 or partnership agreement in which a member, shareholder, joint venturer or partner con-
2 tributes real property to the limited liability company, limited liability partnership, corpo-
3 ration, joint venture or partnership.

4 (d) An agreement providing for a series of related transfers of the fee simple interest in
5 a real property, if the agreement identifies with specificity the price of the transferred in-
6 terest, all consideration given, party names and other essential terms for each transfer of
7 interest that is part of the series.

8 (e) An affordable housing covenant, servitude, easement, condition or restriction in a
9 deed, declaration, land sale contract, loan agreement, promissory note, trust deed, mortgage,
10 security agreement or other instrument, including but not limited to instruments created
11 as provided under ORS 456.270 to 456.295, that are executed by:

12 (A) A public body as defined in ORS 174.109;

13 (B) An agency of the United States;

14 (C) A public benefit corporation, religious corporation or foreign corporation, all as de-
15 fined in ORS 65.001, if the purposes of the corporation include providing affordable housing
16 for low income households and moderate income households as those terms are defined in
17 ORS 456.270;

18 (D) A limited liability company, as defined in ORS 63.001, having a membership composed
19 of one or more corporations described in subparagraph (C) of this paragraph;

20 (E) A consumer housing cooperative as defined in ORS 456.548;

21 (F) A manufactured dwelling park nonprofit cooperative as defined in ORS 62.803; or

22 (G) A federally recognized Indian tribe.

23 (f) A requirement for the payment of a fee to:

24 (A) A homeowners association as defined in ORS 94.550;

25 (B) An association of unit owners as defined in ORS 100.005;

26 (C) A managing entity of a timeshare plan, as those terms are defined in ORS 94.803;

27 (D) Any other owners' association that is governed by recorded covenants, conditions and
28 restrictions; or

29 (E) An agent for an association or managing entity described in subparagraphs (A) to (D)
30 of this paragraph.

31 (g) An agreement between a real estate licensee and a grantor or grantee providing for
32 any commission payable to the real estate licensee for the transfer of the real property.

33 **SECTION 2.** Section 1 of this 2009 Act applies to an instrument conveying, or contracting
34 to convey, an interest in real property that is signed by the transferee of the interest on or
35 after the effective date of this 2009 Act. Section 1 of this 2009 Act applies to a declaration
36 or covenant that is filed on or after the effective date of this 2009 Act.

37 **SECTION 3.** This 2009 Act being necessary for the immediate preservation of the public
38 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
39 on its passage.

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