

Enrolled
House Bill 2481

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

CHAPTER

AN ACT

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

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

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

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

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

(a) An instrument conveying or contracting to convey a fee simple interest in real property that provides for any consideration payable by a grantee to a grantor for the interest in real property being transferred, including but not limited to any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development or sale of the property.

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

(c) A limited liability company, limited liability partnership, corporation, joint venture or partnership agreement in which a member, shareholder, joint venturer or partner contributes real property to the limited liability company, limited liability partnership, corporation, joint venture or partnership.

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

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

- (A) A public body as defined in ORS 174.109;
- (B) An agency of the United States;
- (C) A public benefit corporation, religious corporation or foreign corporation, all as defined in ORS 65.001, if the purposes of the corporation include providing affordable housing for low income households and moderate income households as those terms are defined in ORS 456.270;
- (D) A limited liability company, as defined in ORS 63.001, having a membership composed of one or more corporations described in subparagraph (C) of this paragraph;
- (E) A consumer housing cooperative as defined in ORS 456.548;
- (F) A manufactured dwelling park nonprofit cooperative as defined in ORS 62.803; or
- (G) A federally recognized Indian tribe.
- (f) A requirement for the payment of a fee to:
 - (A) A homeowners association as defined in ORS 94.550;
 - (B) An association of unit owners as defined in ORS 100.005;
 - (C) A managing entity of a timeshare plan, as those terms are defined in ORS 94.803;
 - (D) Any other owners' association that is governed by recorded covenants, conditions and restrictions; or
 - (E) An agent for an association or managing entity described in subparagraphs (A) to (D) of this paragraph.
- (g) An agreement between a real estate licensee and a grantor or grantee providing for any commission payable to the real estate licensee for the transfer of the real property.

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

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

Passed by House March 25, 2009

Received by Governor:

Repassed by House June 1, 2009

.....M.,....., 2009

Approved:

.....
Chief Clerk of House

.....M.,....., 2009

.....
Speaker of House

.....
Governor

Passed by Senate May 29, 2009

Filed in Office of Secretary of State:

.....M.,....., 2009

.....
President of Senate

.....
Secretary of State