

House Bill 2481

Sponsored by Representative HOLVEY (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 **as introduced**.

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.

Allows award of attorney fees and costs to defendant prevailing in action for enforcement of prohibited reservation of 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 agreement that transfers, or purports to transfer, a fee simple in-**
5 **terest in real property may not reserve to any person the right to a share of property value**
6 **appreciation, a fee, commission or other payment or profit upon, or as a condition or result**
7 **of, a future transfer of a fee simple interest or purported fee simple interest in the property.**

8 **(2) A covenant, condition, restriction or other agreement that imposes a servitude on**
9 **real property may not reserve to any person the right to a share of property value appreci-**
10 **ation, a fee, commission or other payment or profit upon, or as a condition or result of, a**
11 **future transfer of a fee simple interest or purported fee simple interest in the property.**

12 **(3) A covenant, condition, restriction or agreement provision that violates subsection (1)**
13 **or (2) of this section is void. In any action brought to enforce a covenant, condition, re-**
14 **striction or agreement provision that violates subsection (1) or (2) of this section, a prevail-**
15 **ing defendant is entitled to reasonable attorney fees and costs.**

16 **(4) Subsections (1) and (2) of this section do not apply to:**

17 **(a) A judgment of marital annulment, dissolution or separation that gives a spouse an**
18 **interest in receiving proceeds from a future sale of real property by the other spouse;**

19 **(b) A mortgage loan agreement that requires payment of mortgage principal, interest and**
20 **fees upon sale of the property by the mortgagee;**

21 **(c) A joint venture or partnership agreement in which a joint venturer or partner con-**
22 **tributes real property to the joint venture or partnership;**

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

27 **(e) An affordable housing covenant that provides for a payment to a covenant holder**
28 **upon termination of the covenant, as described in ORS 456.280; or**

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 (f) A requirement for the payment of a fee to a homeowners association as defined in
2 ORS 94.550 or to the agent of a homeowners association.

3 **SECTION 2.** Section 1 of this 2009 Act applies to an agreement transferring an interest
4 in real property that is signed by the transferee of the interest on or after the effective date
5 of this 2009 Act. Section 1 of this 2009 Act applies to a covenant, condition, restriction or
6 other agreement imposing a servitude on real property that is filed on or after the effective
7 date of this 2009 Act.

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

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