

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2481

By COMMITTEE ON CONSUMER PROTECTION AND PUBLIC AFFAIRS

May 26

1 On page 1 of the printed A-engrossed bill, delete lines 4 through 24 and delete page 2 and insert:

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

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

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

14 **“(a) An instrument conveying or contracting to convey a fee simple interest in real**
15 **property that provides for any consideration payable by a grantee to a grantor for the in-**
16 **terest in real property being transferred, including but not limited to any subsequent addi-**
17 **tional consideration for the property payable by the grantee based upon any subsequent**
18 **appreciation, development or sale of the property.**

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

21 **“(c) A limited liability company, limited liability partnership, corporation, joint venture**
22 **or partnership agreement in which a member, shareholder, joint venturer or partner con-**
23 **tributes real property to the limited liability company, limited liability partnership, corpo-**
24 **ration, joint venture or partnership.**

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

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

33 **“(A) A public body as defined in ORS 174.109;**

34 **“(B) An agency of the United States;**

35 **“(C) A public benefit corporation, religious corporation or foreign corporation, all as de-**

1 **fined in ORS 65.001, if the purposes of the corporation include providing affordable housing**
2 **for low income households and moderate income households as those terms are defined in**
3 **ORS 456.270;**

4 **“(D) A limited liability company, as defined in ORS 63.001, having a membership com-**
5 **posed of one or more corporations described in subparagraph (C) of this paragraph;**

6 **“(E) A consumer housing cooperative as defined in ORS 456.548;**

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

8 **“(G) A federally recognized Indian tribe.**

9 **“(f) A requirement for the payment of a fee to:**

10 **“(A) A homeowners association as defined in ORS 94.550;**

11 **“(B) An association of unit owners as defined in ORS 100.005;**

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

13 **“(D) Any other owners’ association that is governed by recorded covenants, conditions**
14 **and restrictions; or**

15 **“(E) An agent for an association or managing entity described in subparagraphs (A) to**
16 **(D) of this paragraph.**

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

19 **“SECTION 2. Section 1 of this 2009 Act applies to an instrument conveying, or contract-**
20 **ing to convey, an interest in real property that is signed by the transferee of the interest**
21 **on or after the effective date of this 2009 Act. Section 1 of this 2009 Act applies to a decla-**
22 **ration or covenant that is filed on or after the effective date of this 2009 Act.**

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