



OREGON
ASSOCIATION
OF REALTORS®

SUPPORT

HB 3488: PROTECTION FROM PRIVATE TRANSFER FEES

What HB 3488 Does

HB 3488 protects consumers from the imposition of private transfer fees on real estate transactions that also pose a significant hindrance to buyers seeking clear title to property, and place a substantial barrier to potential buyers in seeking financing.



The Oregon Legislative Assembly unanimously approved prohibiting private transfer fees in 2009 (HB 2481) with very limited exceptions.

HB 3488 brings Oregon Revised Statutes in line with recent FHFA rules, while ensuring that legitimate affordable housing fees are still lawful.

Why Is HB 3488 Needed?

On March 16, 2012, the Federal Housing Finance Agency (FHFA) issued a final rule (codified at 12 C.F.R. Part 1228) and a directive which prohibits Fannie Mae from purchasing or investing in any mortgages on properties encumbered by certain private transfer fee covenants, securities backed by such mortgages, or securities backed by the income stream from such covenants, unless they are excepted transfer fee covenants, as defined in the final rule.

In its March 15, 2012 News Release, FHFA stated, "The final rule excludes private transfer fees paid to homeowner associations, condominiums, cooperatives, and certain tax-exempt organizations that use private transfer fee proceeds to benefit the property. Fees that do not directly benefit the property are subject to the rule, and would disqualify mortgages on the property from being sold to Fannie Mae or Freddie Mac, or used as collateral for Federal Home Loan Bank advances."

What is a Private Transfer Fee?

Typically, through the administration of a third party, a property owner adds a covenant to the deed of their home prior to the sale of the property. This covenant attaches to that particular sale of the property, in addition to all future sales of the property. Despite the fact that the third party never maintained any form of ownership interest in the property, they typically receive upwards of 50% of the proceeds from the transfer fee for all sales of the property even when consumers may never be aware that such a restriction was present. A private transfer fee is not a tax – only governments have the authority to tax.

About the Oregon Association of REALTORS®

As one of Oregon's largest trade associations, with more than 13,000 members, The Oregon Association of REALTORS® is committed to strengthening our economy, protecting private property rights, and preserving the dream of homeownership for all Oregonians.