

1 SB441  
2 118505-1  
3 By Senators Mitchell and Little (T)  
4 RFD: Judiciary  
5 First Read: 17-FEB-10

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8 SYNOPSIS: This bill would provide that a transfer fee  
9 covenant is void and unenforceable unless a notice  
10 of transfer fee is submitted for recording and  
11 would provide requirements for a notice of transfer  
12 fee.

13  
14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

17  
18 Relating to real property; to provide that a  
19 transfer fee covenant is void and unenforceable with  
20 exceptions; and to provide requirements for a notice of  
21 transfer fee.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. As used in this act, the following words  
24 shall have the following meanings unless the context indicates  
25 otherwise:

26 (1) AFFECTED PROPERTY. The real property that is  
27 subject to a transfer fee covenant.

1           (2) APPLICABLE COUNTY RECORDER. The recorder of the  
2 county in which affected property is located.

3           (3) EXISTING TRANSFER FEE COVENANT. A transfer fee  
4 covenant recorded in the office of the applicable county  
5 recorder before May 11, 2010.

6           (4) TRANSFER FEE. A fee or charge required to be  
7 paid in connection with or as a result of a transfer of real  
8 property.

9           (5) TRANSFER FEE COVENANT. A covenant, restriction,  
10 or agreement affecting real property and obligating a future  
11 buyer or seller of the real property, other than a person who  
12 is a party to the covenant, restriction, or agreement to pay a  
13 transfer fee. The transfer fee covenant does not include an  
14 obligation imposed by a court judgment, order, or decree or  
15 the federal government or a state or local government entity.

16           Section 2. (a) An existing transfer fee covenant for  
17 which a notice described in Section 3 is not recorded in the  
18 office of the applicable probate judge before January 1, 2011,  
19 shall be void and unenforceable.

20           (b) A transfer fee covenant recorded on or after May  
21 11, 2010, shall be void and unenforceable unless, at the time  
22 the document containing the transfer fee covenant is submitted  
23 for recording, a notice described in Section 3 shall be  
24 submitted for recording in the office of each applicable  
25 probate judge.

1           Section 3. Each notice required under Section 2  
2 shall be titled in at least 14 point boldface type: "Payment  
3 of Transfer Fee Required"; and state all of the following:

4           (1) The name of each owner of the affected property.

5           (2) The legal description and tax identification  
6 number of the affected property.

7           (3) The dollar amount or, if applicable, the  
8 percentage of sales price, constituting the transfer fee  
9 required under the transfer fee covenant.

10           (4) If the affected property is residential, actual  
11 dollar cost examples of the amount of the transfer fee for  
12 property priced at two hundred fifty thousand dollars  
13 (\$250,000), five hundred thousand dollars (\$500,000), and  
14 seven hundred fifty thousand dollars (\$750,000).

15           (5) If applicable, the date on which or  
16 circumstances under which the transfer fee covenant expires.

17           Section 4. This act shall become effective on the  
18 first day of the third month following its passage and  
19 approval by the Governor, or its otherwise becoming law.