

By: Darby

H.B. No. 4219

A BILL TO BE ENTITLED

AN ACT

relating to the prohibition or disclosure of a fee associated with the transfer of real property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 5.017, Property Code, is amended by amended subsections (b) and (c) and adding a new subsection (d) to read as follows:

(b) A deed restriction or other covenant running with the land applicable to the conveyance of [~~residential~~] real property that requires a transferor or a transferee of residential real property or the transferee's heirs, successors, or assigns to pay a declarant or other person imposing the deed restriction or covenant on the property or a third party designated by a transferor of the property a fee in connection with any [~~a future~~] transfer of the property is prohibited. A deed restriction or other covenant running with the land that violates this section or a lien purporting to encumber the land to secure a right under a deed restriction or other covenant running with the land that violates this section is void and unenforceable. For purposes of this section, a conveyance of real property includes a conveyance or other transfer of an interest or estate in residential real property.

(c) Except as provided by Subsection (d), this [~~This~~] section does not apply to a deed restriction or other covenant

running with the land that requires a fee associated with the conveyance of property in a subdivision that is payable to:

(1) a property owners' association that manages or regulates the subdivision or the association's managing agent if the subdivision contains more than one platted lot;

(2) an entity organized under Section 501(c)(3), Internal Revenue Code of 1986; ~~or~~

(3) a governmental entity; or

(4) an entity that operates a golf and country club in or adjacent to one or more subdivisions where the owners of real property in such subdivisions are required deed restriction to obtain and maintain a membership in such club.

(d) An exemption provided by subsection (c) becomes null and void unless:

(1) the fee imposed by an entity has been approved by property owners at an election on the issue of authorizing the entity to impose the fee; and

(2) the seller of an interest in real property located in this state gives to the purchaser of the property a written statement of all fees associated with any transfer of ownership of the property, including:

(i) a description of each fee;

(ii) to whom each fee is paid;

(iii) the amount of each fee; and

(iv) when payment of each fee is due.

(e) Any property owner who is the owner of record of fee simple title to a parcel of land subject to a deed restriction or

1 other covenant running with the land applicable to the conveyance
2 of the property at the time an election is held is entitled to vote
3 in an election on the issue of authorizing an entity to impose a fee
4 under subsection (c).

5 (f) A violation of subsection (d) does not invalidate a
6 conveyance.

7 (g) If a contract is entered into without the seller
8 providing the statement provided by subsection (d)(2), a purchaser
9 is not required to pay any fees associated with any transfer of the
10 property at any time.

11 (h) A seller of real property is not liable for any fee
12 associated with the transfer of property if the entity receiving
13 the fee under subsection (c) does not timely provide the seller with
14 the information required to be given to a purchaser under
15 subsection (d).

16 (i) An exemption provided by subsection (c) does not create
17 any additional authority on any entity to receive a fee associated
18 with the transfer of real property.

19 SECTION 2. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2009.