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SB0859

House	9501-9544	44
Insurance	433-444, 521-524	16
Senate	980-983, 1890-1897, 2068-2070	15
		75

H - 1177

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HOUSE OF REPRESENTATIVES

4
June 4, 2013

REP. ZUPKUS (89th):

Today I have with me Madelyn Vallillo, and Madelyn is the finalist for the Connecticut Invention Convention. And Madelyn made this great Breathing Buddy, because her cousin has asthma. And she came up with this idea and was the finalist in the contest and actually is thinking about patenting it. So I ask that you all would please give a warm congratulations to Madelyn.

SPEAKER SHARKEY:

Madelyn, thanks for being here today. We're looking - - we're-- we're happy you could be with us today. So congratulations on the Invention Convention; great job.

Are there any other announcements or introductions?

With that, two days left, lots of work to do, let's get right to it.

Will the Clerk please call Calendar 579?

THE CLERK:

Calendar 579, Favorable Report of the joint standing Committee on Judiciary, Senate Bill 659 [sic], AN ACT
CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES.

(SB859)

SPEAKER SHARKEY:

Representative Megna.

REP. MEGNA (97th):

Thank you, Mr. Speaker.

mhr/gbr
HOUSE OF REPRESENTATIVES

5
June 4, 2013

Mr. Speaker, I move acceptance of the joint
committee's Favorable Report --

SPEAKER SHARKEY:

Excuse me.

REP. MEGNA (97th):

-- and --

SPEAKER SHARKEY:

Excuse me --

REP. MEGNA (97th):

-- passage of the bill.

SPEAKER SHARKEY:

-- Representative Megna.

Representative Smith, for what reason do you rise?

REP. SMITH (108th):

Thank you, Mr. Speaker.

I will have to recuse myself from this matter, so I'd
like to step out of the Chamber.

SPEAKER SHARKEY:

Thank you.

The Chamber will stand at ease for a moment.

(Chamber at ease.)

(DEPUTY SPEAKER SAYERS IN THE CHAIR)

DEPUTY SPEAKER SAYERS:

Representative Megna, you have the floor, sir.

REP. MEGNA (97th):

Thank you, Madam Speaker.

Madam Speaker, I move acceptance of the joint committee's Favorable Report and passage of the bill, in concurrence with the Senate.

DEPUTY SPEAKER SAYERS:

The question before the Chamber is acceptance of the joint committee's Favorable Report and passage of the bill, in concurrence with the Senate.

Representative Megna, you have the floor, sir.

REP. MEGNA (97th):

Thank you, Madam Speaker.

Madam Speaker, this is a bill involving an item called a "private transfer fee." This is a bill that's been before our committee the last few years and has gained a wide support among members of the, our committee as well as, I believe, the Judiciary Committee.

What a private transfer fee is, Madam Speaker, is it's an incumbrance, an obligation, a contractual obligation that a -- a developer or a property owner can place on a piece of property. And what it does is each time that

property changes hands or is sold, the -- the buyer or the seller has to make a payment to the person holding that private transfer fee obligation.

Realtors, attorneys have come in front of our committee discussing this item. They -- they actually pointed out to us that I think there's many, many, 40-or-so states that have already banned this practice. It places a burden on property owners, and most people feel it's just simply unfair that every time a piece of property is sold, some entity or individual somewhere has to receive a -- a percent of the value of that sale of that property.

Generally speaking, as I understand them, they're -- they're in place for 99 years. And I've also read some information that some of them could be in perpetuity on that piece of property, where in fact every time that property is sold, an entity or an individual receives a -- a payment or part of the value of that property as it's sold.

So what this does, Madam Speaker, is this bans these private transfer fees prospectively, and it also requires notice and creates a process that in the event disclosure is not done of the fee and other information is not put forward to the purchaser of that property where this private transfer fee exists prior to the effective date of

this law, if this law, if this bill should become law, then there -- there is a process to unencumber that piece of property.

I know that in the last several weeks we, there was some concern about unencumbering the existing private transfer fees. And we've, I had a lot of discussion with the attorneys, the -- the Real Estate Association, and some of my colleagues, and it was determined that it's okay, it's not a taking, and by creating this scenario of disclosure and of this process to let the buyer know of these private transfer fees, and they fail to comply with the requirements under the law, the consumer protections, then they can become unencumbered through this process. So that's what this bill does.

Madam Speaker, the Clerk is in possession of LCO 5800. I'd ask that it be called and I be permitted to summarize.
DEPUTY SPEAKER SAYERS:

Will the Clerk please call LCO Number 5800, which will be designated Senate Amendment Schedule "A."

THE CLERK:

Senate Amendment "A," LCO 5800, introduced by Representative Megna and Senator Crisco.

DEPUTY SPEAKER SAYERS:

The Representative seeks leave of the Chamber to

summarize. Is there any objection to summarization? Is there any objection?

Hearing none, Representative Megna, you may proceed with summarization.

REP. MEGNA (97th):

Thank you, very much, Madam Speaker.

Madam Speaker, when the bill was going through the process, it had had a fiscal note, because of the Department of Consumer Protection gave it a fiscal note. And after discussion with the department and to move this forward and best financial interests of the State of Connecticut at this point, we did this amendment which simply says that any person aggrieved under this section of law, if it becomes law, their remedy would be to bring a civil action against the party, in a sense, in a sense isolate this away from Consumer Protection. So there will be no fiscal note, and the individual will just have to go to court to seek a remedy.

With that, I would move adoption of this amendment, Madam Speaker.

DEPUTY SPEAKER SAYERS:

The question before the Chamber is adoption of Senate Amendment Schedule "A."

Will you remark on the amendment?

Representative Sampson, of the 80th.

REP. SAMPSON (80th):

Good morning, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Good morning, sir.

REP. SAMPSON (80th):

I have some questions on the underlying bill, but I will get to that after the amendment.

As far as the amendment goes, I'm wondering if the proponent of bill could, once again, describe for me what the changes actually make to the underlying bills, particularly in Line 4 of the amendment, where it says to strike Lines 141 to 145.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna, do you care to respond, sir?

REP. MEGNA (97th):

Yes, Madam Speaker.

Lines 141 through 145 would have, would have made a violation of this section, an unfair, deceptive act or practice under Section 42-110b of the General Statutes. And what it does is it removes that and literally just sets forth that the individual can -- can bring an action against, I imagine, the -- the party, the owner of the --

the holder of the private transfer fee.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you Madam Speaker, and I thank the Chairman of the Insurance Committee for his answer.

I'm wondering if he can describe for me what exactly Section 42-110b is?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

I would imagine it has to do with unfair or deceptive acts or practices. I do not know that section of the statute at this current moment, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

I'm -- I'm just, I'm wondering why we've made this particular amendment. It seems to me in the -- the first few lines of the amendment, we are creating a situation

where someone could actually bring a civil action for damages, and I don't know why we would need to spell that out. It seems to me someone would be able to do that anyway.

In fact, through you, Mr. -- Madam Speaker, would someone be able to -- to file a -- a civil action with regard to a private transfer fee without this amendment?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Thank you, Madam Speaker.

And I'm a -- a very good question. I, after the amendment was established, I actually questioned LCO why are we, why are we literally doing this amendment. And the response was to make it clear under the statute that -- and to eliminate the fiscal note -- that this will not fall under, that section of the statute will not be subject to oversight by Consumer Protection and therefore would have no fiscal note.

And it was a great concern of the committee, because it's a good bill. It's a very good consumer protection, we felt. I -- I believe it came out of the committee unanimous and as well as the Judiciary. And when it did

come out, it had that -- that fiscal note was put on it and we knew that we are in some difficult economic times, but yet this is a great consumer protection and hence that's it.

And so essentially it just clarifies that you need to bring a civil action, too, and it's not subject to that section of statute, which I'm assuming would be under Consumer Protection.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

And thanks, again, to the -- the Chairman of the Insurance and Real Estate Committee.

I'm wondering if there's anything contradictory about Lines 1 through 3, where we're essentially stating that we can now have a -- a civil suit for someone who places a private transfer fee on a property after the underlying bill becomes law, and at the same time, in Line 4 of the amendment, we're essentially saying that we're going to erase the language that says this constitutes an unfair or deceptive act.

And my guess is that 42-110b is CUPTA statutes,

although I honestly don't know what it is, offhand too.
And I'm just looking at this for the very first time right
now.

So I'm -- I'm wondering, Madam Speaker, if I can ask
the proponent if there was any testimony that maybe led to
this amendment being drafted to begin with.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

I believe that this testimony, I mean that the
amendment was established, I think probably after the bill
came out of the committee because of the -- the try to make
the law but yet not have a fiscal note, just being
conscious of the fiscal note that would appear on the, on
the bill, while preserving a right of the -- the owner of
the property to bring an action if notice or -- or the
other circumstances aren't met by the owner of the private
transfer fee at the time of the purchase of the property.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

And -- and thanks to the Chairman for his answer.

Okay; well, I guess those my questions with regard to the amendment. As I said, I do have some questions about the underlying bill. I think that we have heard some -- some pretty compelling testimony that this is something needed as we have seen it become law in 40-plus states. And I know that there are industry folks that are very much behind this.

I don't think that my questions really have anything to do with a question of support. It's more or less, I think, for the record; I'd like to clarify what private transfer fees and how they are going to be taken care of in our state, going forward.

So I'm going to encourage my colleagues to vote in favor of this amendment, but I'm going to follow up afterwards and ask some questions about the bill.

So thank you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Thank you, Representative.

Representative Ziobron, of the 34th, do you wish to speak on the -- oops, she's not in the Chamber.

Will you remark further on the amendment that is before us? Will you remark?

Representative do you wish to speak on the amendment?

A VOICE:

No thank you, madam.

DEPUTY SPEAKER SAYERS:

Okay.

Will you remark? Will you remark further on the amendment that is before us?

If not, let me try your minds. All those in favor, signify by saying Aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER SAYERS:

Those opposed, Nay.

The Ayes have it. The amendment is adopted.

Will you remark further on the bill as amended? Will you remark further on the bill as amended?

Representative Shaban, of the 135th.

REP. SHABAN (135th):

Thank you, Madam Speaker.

A few questions, through you, to the proponent, if I may.

DEPUTY SPEAKER SAYERS:

Please frame your question, sir.

REP. SHABAN (135th):

Thank you.

I seem to remember this bill working its way through the system, and I looked at it the first time it did, when first it hit my radar screen. My question is: As amended, do these private transfer fees, are -- are we trying to ban them retroactively or only prospectively?

Through you.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, prospectively.

REP. SHABAN (135th):

So through you, Madam Speaker --

DEPUTY SPEAKER SAYERS:

Representative Shaban.

REP. SHABAN (135th):

I'm sorry; so through you, Madam Speaker.

Any of the private transfer fees that exist on land records now will exist in, for the length or not in perpetuity but for the length, under their present structure, I assume.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

There -- there are conditions that are set forth for existing private transfer fees, such as notice and some other items. If there isn't compliance with these conditions, the property could become unencumbered, if there's an existing private transfer fee. But assuming -- assuming the holder of the private transfer fee complies with the law, it, that private transfer fee can exist in either, from what I understand, 99 years or possibly perpetuity.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

And I guess that was sort of the concern I had. I mean, the -- the good news is that it's not looking to get rid of the existing private transfer fees altogether, but it appears that we're applying new conditions to an existing right that could, in fact, affect the surrender of that right, which raises a concern for me as an attorney.

So through you, Madam Speaker, has anyone done a -- a Constitutional slash taking type analysis on -- on this

bill?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

Actually, that was a concern of mine personally, and I had, I asked LCO what they thought. And they did not say it would constitute a taking.

I also had met with the advocates on it, and I'm told throughout approximately 40 states or so, legislation identical to or substantially similar to this allowing the property to become unencumbered in the event the criteria is not met under the, under those different state law, it could become unencumbered.

And I had some debate with attorneys with the Real Estate Association, and -- and I argued with them on that, on that fact, not simply accepting the fact that all these other states have done this or something very similar. And they would pose arguments to me such as any kind of an encumbrance on a property could actually become unencumbered, even if it's in perpetuity or -- or forever amount of time if -- if by law it's not disclosed after so many years, and so on and so forth. So -- so that's how

mhr/gbr
HOUSE OF REPRESENTATIVES

20
June 4, 2013

they came back to me with that argument. And they vehemently -- vehemently disagreed with me and said no, it's not a taking, it's not; it would not constitute a taking, as did LCO. There's no memo on this bill from LCO, and I personally spoke with them about it.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

I thank the gentleman, because, yeah, that obviously was a concern. I mean, I -- I appreciate the fact that -- that we got out in front of this.

Last question, if I may. Looking at Lines 104, 105, I think this is one of the conditions of, in the, in the file copy; I'm not sure if the lines change with the amendment. But it's the -- the, you have to list the acknowledged signature of the person to which such fee was or is paid.

Through you, Madam Speaker, if that person is dead -- through you -- because I think some of these private transfer fees could go to an entity is my understanding, how does one abide by Section F?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

In -- in Lines 2 through 4, a person is an individual corporation, limited LLC, partnership, association, trustee, or other entity capable of holding an interest in real property or any combination thereof. So it actually defines a person; it's not necessarily a -- a human being.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Shaban.

REP. SHABAN (135th):

Thank you, Madam Speaker.

So that person, if it is a corporation or an LLC or something like that, that acknowledged signature could be a -- a signature from an agent of that entity?

Through you.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

For legislative intent, I believe so, through you, Madam Speaker.

And I -- I wanted to just speak a little bit about these items, from what I understand, these private transfer

fees. Since they go into perpetuity or -- or 99 years, they're bundled and they're traded and resold. And I hear they're traded down on the -- on Wall Street. So the answer to your question is yes.

Through you, Madam Speaker. I apologize.

DEPUTY SPEAKER SAYERS:

Representative Shaban.

REP. SHABAN (135th):

And thank you, Madam Speaker.

Yeah, the gentle -- it's funny -- as the gentleman was saying that, I -- I had recollection of, in fact, these are traded as some kind of derivative. I guess it's -- it arguably is security, because it represents some interest in a money flow.

I guess it, it's the mechanics of how once these things are traded, how the purchaser is going to abide by this change in the law, I guess concerned me a little bit. But I'm going to continue to listen to the debate, continue reading the bill, and I thank the gentleman for his responses.

DEPUTY SPEAKER SAYERS:

Representative Alberts, of the 50th.

REP. ALBERTS (50th):

Good morning, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Good morning, sir.

REP. ALBERTS (50th):

I, if I may, a couple questions to the proponent of the bill, now amended, before us.

DEPUTY SPEAKER SAYERS:

Please frame your question, sir.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

In -- in looking at the fiscal note for the bill that we have now before us, there is a cost, and I was hoping the proponent could address the proposed cost. It looks minimal but I think, nonetheless, we still want to recognize it.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

I, the -- the fiscal note on the -- the bill before it was amended is different than with the amendment; I believe the amendment removes the fiscal note. And that was, in part, the intent of it, because we believed it was a good bill and we need to consider the financial condition of the

state at the same time as passing this law, if it does become law.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

Does the potential gain that's referenced also, is that also removed as a result of the amendment?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, yes.

DEPUTY SPEAKER SAYERS:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

I wanted to -- this was a bill, as the proponent has already mentioned, that drew wide support in the Insurance Committee and -- and I supported it. We didn't have a lot of testimony. There were only three folks, as I recall, who testified on it, and I just wanted to go through that testimony a little bit, if I, if we could.

And one of the pieces of testimony was from CATIC, and -- and one of the things that I wanted to kind of explore was, you know, what are the nature of the buildings that were, that are most likely going to be subject to these type of private transfer fees. Are we talking about condominiums? Are we talking about multi-family properties, commercial properties, or -- or strictly single-family properties?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

From how I understand the business, how it's told to me is primarily a, you see these things popping up on either commercial properties or -- or also possibly housing developments, and developers place them on -- on these developments. But from how I understand it, that's where they're popping up. They're popping up from developers, commercial and residential developers.

But also I have heard of instances where owners of existing property are -- are placing these on -- on their property. I'm, when I first heard about this, I thought to myself, what -- what simpler way is there a business to earn money by simply filing a document on -- on the land

records and every time that property is sold, a payment is to be made to you. I mean, that's great work if you can get it, but it -- it just sounds like it's probably not good for -- for the people of Connecticut.

So essentially it'd on -- from how I understand it -- it's commercial developments and -- and developers who develop residential subdivisions, I would, I -- I imagine is the word.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

It is, indeed, good work if you get it, if you can somehow put something on a, on a deed and every time through the miracle of -- of that one piece or one piece of action, somebody sends you a check. And -- and I appreciate the intent here, but I guess that was one of the things that we kind of struggled with when we were looking at this and then before we decided to accept it was I don't recall a single instance of -- of someone actually having this happen to them in Connecticut.

And I just wanted to make sure that was also the recollection of the good Chairman of the committee.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Generally speaking -- through you, Madam Speaker -- generally speaking, it -- it is kind of a -- a proactive approach to the issue that has been occurring in other states. However, there -- there are some, at least one that I'm aware of in the, levied on property here in the, in the State of Connecticut. But probably it was in its infancy, this business, here in, here in our state.

But through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

And I -- I thank the proponent for that response.

There was another piece of testimony we received from the Connecticut Association of Realtors, and I think one of the things that they addressed in their letter to the committee was their concern that FHFA, the conservator for Fannie Mae and Freddie Mac has refused to finance transactions in developments where the fees exist. And I -
- I don't believe that's been addressed, but I just wanted

to make sure that, you know, I gave the opportunity to the Chairman to discuss that.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Thank you, Madam Speaker.

And I -- I thank the Representative for that, for bringing that up; that's a very important piece of information, because that could essentially really impact the marketplace by, you know, really depleting the -- the size of the marketplace to buy that piece of property if financing isn't available to them.

So, you know, initially we would think that -- actually, let me point out that generally, from my knowledge, these private transfer fees are like one percent of the -- the sales' price of the home -- I guess it could be more. But, and we -- we thought that, well, that one percent really does put a damper on things when people are going to sell property and especially particularly if they're -- they're underwater or they, or they're -- they're selling at a -- a loss or its a short sale or -- but more so probably what Representative Alberts pointed out is a -- a really big issue because I don't know what

portion of the marketplace relies on -- on those institutions. But that could, that could essentially eliminate somebody's piece of property, really, from the marketplace, if you, if you really think about it.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Madam Speaker.

And I share that sentiment. I think if we were to not enact this, I think although there -- there may not have been, you know, many of these types of situations in Connecticut to this date, but not enacting this, by not moving forward, we're creating a situation which is going to make it more difficult for financing to take place. And, you know, for those reasons, I think that, you know, we should make sure that we do pass this legislation.

You know, one of this concerns I have -- and I do thank the proponent for bringing this up and for answering my questions -- I guess in summary, Madam Speaker, one of the concerns I have is that we need as a state to do everything possible to keep the real estate market moving forward and clearing the market. And these private transfer fees, from my perspective, really pose a potential

impediment in helping have an open and clear market.

So I'm glad to be, to have had the opportunity to have supported it in committee, and -- and I look forward to voting in favor of it.

Thank you.

DEPUTY SPEAKER SAYERS:

Thank you. Thank you, Representative.

Representative Sampson, of the 80th.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

I appreciate the Chamber's patience in me trying to maybe drill down a little bit just to -- to get a little clarification for the record about private transfer fees, what they are, and how they affect our marketplace.

And I'm wondering if I can ask a question, through you, Madam Speaker, to the proponent of bill.

DEPUTY SPEAKER SAYERS:

Please frame your question, sir.

REP. SAMPSON (80th):

I'm wondering, first off, if we have any existing laws that affect private transfer fees.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

I'm not, I not quite sure. I know the good Representative is a realtor. There may be something in statute that talks about it, but I haven't seen anything referred to in this language referring to any other section of statute. So I would assume no. Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

Yeah, they say never to ask a question you don't already know the answer to, but to be honest with you, I don't know either. And I was hoping that you would enlighten us, but I -- I think it's fine. I mean, I'm certain we have existing contract law and some other things that certainly impact the existence of these fees.

I'm wondering if the Chairman is aware of how this proposed bill is the same or different from any of the other states that have already enacted legislation on private transfer fees. And -- and I don't know if we, did we draft our own legislation or did we use model language from somewhere?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

From -- and actually, that's a good question. Thank you, very much, for my Ranking Member.

When I was in this debate with the realtor association on this possible taking or what I thought might appear as a taking when we create this scenario that they could remove existing private transfer fees, they talked about 40 states or so that -- that passed this law. So I said, please show me some of that. And they presented statute from maybe four -- four of the, of the 40 states or so. And primarily the language was kind of essentially the same, you know, creating the notice and then, and the, and the disclosure. And if they don't meet those requirements of the notice and the disclosure, then the -- you could go through a process to unencumber the property.

And they often talked about it being based on model language that maybe the realtor association or National Association of Realtors had brought forward. I'm -- I'm not quite sure what organization it was. I'm -- I'm assuming it was some organization that had to do with realtors.

But the language that was presented to me for the three or four states was substantially the same and with the exception of our amendment and how we dealt with the consumer protection and removing, attempting to remove the fiscal note while preserving the bill.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

And I thank the gentleman for his answer.

Right in Section 1, I think it's the second paragraph where we define what a private transfer fee is, I believe we've already said that most of these are around one percent of the sales' price. I've got a couple questions about that, but before I get into that, I want to ask about this little two that is at the end of that second paragraph where it says private transfer fee.

First it says it means a fee or a charge payable upon conveyance, but then it also says for the right to make or accept such conveyance. And we're sitting here and a couple of us are looking at it, and we're trying to make sense out of exactly what that means. I'm wondering if the Chairman knows.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

As I read it, I -- I think it has to do with the ability to -- to move these things around and to -- to transfer them, these private transfer fees. I had the opportunity to look at one of these private transfer fees, and it was probably maybe a five or six page document with, which really gave the -- the holder of that contract tremendous rights in terms of foreclosure, so on and so forth. And so I would, I would think that that's what means, through you, Madam Speaker, that any, anybody holding that -- that contract, that contract if it's transferred.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

And thank you to the -- the Chairman of the Insurance and Real Estate Committee for that answer.

I'm wondering if he knows roughly how many contracts

exist in our state that currently contain liens for private transfer fees.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

Could you -- I think the good Representative asked me the amount of private transfer fees on property in the state currently.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson, if you would just please reframe your question.

REP. SAMPSON (80th):

Thank you, Madam Speaker; I'd be glad to.

I'm just asking if we know how many contracts or how many, you know, properties have this particular private transfer fee associated with their deeds currently in the state, just so I can get an idea how much of an impact we're going to be -- make going forward.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

That's actually a very good question, Madam Speaker.

I know that during testimony or during our public hearing, I remember asking -- I -- I think the, my Ranking Member was there -- talking to some of the realtors that were testifying on behalf of the bill. And I don't think there was one of them that could tell us the existence of a private transfer fee on any single property in this state.

But, subsequently, I have come to know at least one here in the State of Connecticut.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

That's good. I -- I think that shows that it's certainly not a large number that's going to be affected.

I'm curious; do we know how the other factors that might be involved in a real estate transaction are affected by a private transfer fee? And I'm thinking about our conveyance taxes. Do we know that when we have a -- a seller's conveyance tax, whether it's applied to the gross sales' price before the private transfer fee or after, because certainly that would impact the amount of revenue

that is generated for both, a municipality and the state.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

That's a very good question, which I really don't know, and I'm assuming off the top of my head that -- the one document that I had read spoke of one percent of the sales' value. Where that is in the -- the closing process, I -- I don't know.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

I was going to follow up to ask about maybe a -- a real estate commission and how that might be affected, too, but I'm guesses that that's probably something that would be handled between the -- the realtor and his client anyway and probably not subject to some kind of statute.

We talked about maybe these are typically one percent. Do -- do they last forever -- through you, Madam Speaker -- or is it something that would be, you know, for 99 years or

are some other number?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

As I understand it, I actually did a little bit of research on -- on-line about private transfer fees, and I found information that said that it's possible that it could be in perpetuity, where there is no limitation of -- of time. But I've also heard from individuals and have read that as a general rule, they -- they cannot be -- or a general rule or maybe some kind of rule of law where it cannot be more than a period of 99 years. So I kind of see, I've -- I've seen both. It could be up to 99 years or in perpetuity.

As I understand it, though, the general practice is most of those documents are 99 years. And of course I guess we could assume that if the individual wasn't as anxious to earn money, it could be probably a lesser amount of years. But for -- for all intensive purposes, I would think that most, Madam Speaker, are 99 years.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

I, just a -- a follow-up to that. I'm assuming that, like any lien, they need to be recorded on the deed. So I -- I'm just wondering how a perspective buyer of a property might become aware that a private transfer fee exists and if there's a mechanism with regard to current private transfer fees, if there is some objection on behalf of the buyer.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

I -- I, currently I believe they're -- they're literally filed on the -- the land records. I don't know if there's any requirement for them to be disclosed prior to that or at -- at the point of sale of the piece of real estate.

But this law, if it becomes law, would institute a process, a -- a notice. During the title-search process of the -- the real estate transaction is when if it wasn't disclosed during the -- the sale that it would be, it would be disclosed by the title searcher.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

Does this bill -- through you, Madam Speaker -- include a provision for private transfer fees that will exist going forward to provide notice to potential buyers?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker, yes.

There's a section of the bill that would require a particular notice to be put forward to the, to the buyer of the existing obligation. And that begins on about Line 76 of the bill.

So, yes, it'll be a separate document in 14-point, bold type, notice of private transfer fee obligation, and it would include the information that's set forth in Lines 93 through 107.

So yes, if this bill does become law -- through you, Madam Speaker -- it would require that notice to be established for existing private transfer fees, all one of

them so far here in the State of Connecticut. Through
you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

I understand that this bill is only going to ban private transfer fees prospectively, and I'm wondering if we can clarify that situation a little bit. So does this mean -- through you, Madam Speaker -- that is private transfer fee that currently exists can continue throughout its whatever contractual obligation, whether it be 99 years or -- or perpetually, even to subsequent, you know, buyers and sellers after this bill is enacted?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

Yes, it -- it bans them prospectively but, and creates the notice and some other requirements. And in the event the notice is not done or the other requirements are not met by the holder of that private transfer fee, it could become ineffective and the -- the property could become

unencumbered by the, I would assume the purchaser.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

And thank you to the good Chairman for his answer.

I guess I'm trying to find out if I'm a buyer going forward or a seller, in fact, and one of these private transfer fees comes up on a, in a real estate transaction where we have a contract for purchase, is there any mechanism in this bill if it's adopted and becomes law to provide for one of the parties not wishing to comply. Is there any penalty outside the normal contract law?

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

Through you, Madam Speaker.

Could the good Representative please repeat that question.

DEPUTY SPEAKER SAYERS:

Representative Sampson, if you could reframe the question, please, sir.

REP. SAMPSON (80th):

Thank you, Madam Speaker. I would be happy to.

I'm -- I'm basically trying to find out that if a transaction happens in the future, and knowing that these private transfer fees are no longer allowed in our state, if you have a buyer, for instance, who wants to make a purchase on a property where one still exists, if there is a mechanism to force the seller to comply, to say that they still need to sell them the property because private transfer fees are no longer allowed.

Through you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Megna.

REP. MEGNA (97th):

If the, if this becomes law and the private transfer fee exists, preexisted the law --

REP. SAMPSON (80th):

Yes.

REP. MEGNA (97th):

-- it would have to have been for the buyer, I'm assuming to -- to unencumber it. If the holder of the private transfer fee did not provide the disclosure as set forth or -- or meet the regulatory framework that this bill would create, then the, it could become ineffective and

essentially unencumbered.

Through you, Madam Speaker.

REP. SAMPSON (80th):

I thank the good --

DEPUTY SPEAKER SAYERS:

Representative Sampson.

REP. SAMPSON (80th):

Thank you, Madam Speaker.

I thank the -- the gentleman for his answers. Just curious to know exactly where we stand as far as the existing private transfer fees, although rare, there's no doubt circumstances where they will turn up, and I'd like for the record just to make sure that we've stated what our intent is here.

I think, overall, that this is a good piece of legislation, and I'm inclined to support it.

It's one of those issues that's difficult for me, personally, because I don't typically like to see the government getting involved in the -- the private contractual arrangements of our citizens. But, of course, you know, the Consumer Protection requires that we do regulate certain types of transactions and real estate is certainly chief among them.

So -- and, of course, there's overwhelming support for

this. I don't believe that we heard any testimony in opposition and we know that it's been enacted in many, many other states, so I'm -- I'm very much supportive of this legislation. I know that as a realtor I've been contacted by many of my colleagues and of course the realtor organizations who would like to see this become law as well.

So I'm going to urge my colleagues in this Chamber to support this legislation, and I think it is a step in the right direction.

Thank you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Thank you, sir.

Will you remark further on the bill as amended?

Representative Megna.

REP. MEGNA (97th):

Thank you, Madam Speaker.

I think it's a great piece of legislation here, wonderful consumer protection. And with that, I just urge support from my colleagues.

Thank you, madam.

DEPUTY SPEAKER SAYERS:

Will you remark further? Will you remark further on the bill amended?

If not, will staff and guests, will staff and guests please come to the Well of the House, members take their seats, and the machine will be open.

THE CLERK:

The House of Representatives is voting by roll call.

Members to the Chamber, please. The House of Representatives is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER SAYERS:

Have all the members voted? Please check the board to see that your vote has been properly cast. If all the members have voted, then the machine will be closed. And a Clerk will take the tally.

The Clerk will announce the tally.

THE CLERK:

Madam Speaker, in concurrence with the Senate, Senate Bill 859, as amended by Senate "A." Total Number

Voting	132	
Necessary for Passage		67
Those voting Yea		132
Those voting Nay		0
Not voting		18

DEPUTY SPEAKER SAYERS:

The bill as amended passes, in concurrence with the

Senate.

Are there any announcements?

Representative Morin.

REP. MORIN (28th): .

Good afternoon, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Good afternoon, sir.

REP. MORIN (28th):

For the purposes of an announcement, please.

DEPUTY SPEAKER SAYERS:

Please proceed, sir.

REP. MORIN (28th):

Thank you, Madam Speaker.

Up in the gallery we have members of, 4th graders from Emerson-Williams School, my alma mater from 1966. And they're here today to learn about government, and they've been really good sports. They've been sitting up there for a long time, listening to the exciting debate on the insurance bill, and I hope that we can give them a warm welcome.

Thank you, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Thank you, sir.

And welcome to the Chamber.

S - 655

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
PART 4
911 - 1212**

mhr/gbr
SENATE

70
April 24, 2013

THE CLERK:

Immediate roll call has been ordered in the Senate.

~~Immediate roll call has been ordered in the Senate.~~

THE CHAIR:

Would all Senators please check the board to make sure that your vote is properly recorded? If all members have voted and if all votes are properly recorded, the machine will be locked.

And the Clerk will please take a tally.

THE CLERK:

Senate Bill 599 as amended by Senate A.

Total Number Voting	34
Those voting Yea	21
Those voting Nay	13
Absent, not voting	2

THE CHAIR:

The bill as amended is passed.

Mr. Clerk, please call the next bill.

THE CLERK:

Page 4, Calendar 60, Senate Bill Number 859, AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES, Favorable Report of the Committee on Insurance.

THE CHAIR:

The Chair will recognize Senator Crisco.

SENATOR CRISCO:

Thank you, Mr. President.

Mr. President, I move acceptance of the joint committee's Favorable Report and passage of the bill.

mhr/gbr
SENATE

71
April 24, 2013

THE CHAIR:

The question before the Chamber is acceptance and passage. Do you care to remark further?

SENATOR CRISCO:

Yes, Mr. President.

Mr. President, the Clerk has an amendment, LCO 5800; I request that it be called, I'll be given permission to summarize.

THE CHAIR:

Will the Clerk please call LCO 5800, to be designated Senate "A."

THE CLERK:

LCO Number 5800, Senate "A." offered by Senator Crisco, Representative Megna.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Mr. President, I move its adoption.

THE CHAIR:

The question before the Chamber is adoption of Senate "A." Will you remark further?

SENATOR CRISCO:

Yes, Mr. President.

Mr. President, the -- the amendment removes any dollar impact on -- that was in the bill. It also requires that there be no CUTPA -- that's C-U-T-P-A -- regulation, that it excludes and it, and it exempts that from CUTPA, that if there's any contest of the

mhr/gbr

72

SENATE

April 24, 2013

issue that would have to -- by a landowner -- it would have to be done through the court system.

I just would like to briefly tell the Circle that a private transfer fee is a change in the language of the home purchase contracts and requires a percentage of the sale price to be paid to the original corporate owner of the property every time the property is sold, so -- so -- or long as 99 years. So I think the Circle could appreciate that this isn't a very equitable charge for the homeowner.

THE CHAIR:

Thank you, Senator.

Do you care to remark further on Senate "A?" Will you remark on Senate "A?"

If not, the Chair will try your minds. All those in favor of Senate "A," please indicate by saying Aye.

SENATORS:

Aye.

THE CHAIR:

All those opposed, say Nay.

The Ayes have it; Senate "A" is adopted.

Will you remark further on the bill as amended?

SENATOR CRISCO:

I -- I believe, Mr. President, that there is a reference to the Judiciary Committee. Maybe the Majority Leader will substantiate that.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Yes, thank you. Thank you, Mr. President.

mhr/gbr
SENATE

73
April 24, 2013

If -- would accept if Senator Crisco would -- would yield to me; I would make that motion.

THE CHAIR:

Will you yield to Senator Looney, Senator Crisco?

SENATOR CRISCO:

Mr. President, indeed I will yield to the Majority Leader.

THE CHAIR:

And Senator Looney, will you accept a yield?

SENATOR LOONEY:

Yes, thank you. Thank you, Mr. President.

Thank you, Senator Crisco.

Yes, Senator Crisco is correct. Having adopted that amendment, Mr. President, would now move that the bill as amended be referred to the Judiciary Committee.

THE CHAIR:

The motion is to refer this item to the Judiciary Committee. Is there objection? Is there objection?

Seeing none, so ordered.

SENATOR LOONEY:

Mr. President?

THE CHAIR:

Mr. Majority Leader.

SENATOR LOONEY:

Yes, thank you, Mr. President.

S - 658

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

**PROCEEDINGS
2013**

**VOL. 56
PART 7
1827 - 2152**

cah/meb/gdm/gbr
SENATE

214
May 14, 2013

to be made concerning this bill and if there is no objection, I would move it to the consent calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR COLEMAN:

Thank you.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the Clerk would call as the next item, Madam President, Calendar page 40, Calendar Number 60, Senate Bill 859 to be followed by 'under matters returned Calendar page 46, Calendar 222, Senate Bill 952, as the next two items, and also Calendar page 45, Calendar 207, Senate Bill 236. Thank you, Madam President.

THE CHAIR:

Thank you.

Mr. Clerk.

THE CLERK:

On page 40, Calendar 60, Senate Bill Number 859, AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES, amended by Senate "A," favorable report of the Committee on Insurance and Real Estate, and there are amendments.

THE CHAIR:

Senator Crisco.

cah/meb/gdm/gbr
SENATE

215
May 14, 2013

SENATOR CRISCO:

Thank you, Madam President. Madam President, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

The motion is on passage. Will you remark, sir?

SENATOR CRISCO:

Yes, Madam President. This bill was amended previously and was referred to the appropriate committee and now is back on our calendar. This particular issue is one originally where developers were able to charge a transfer fee and it was recorded on the property deed, but over the years there have been cases where the transfer fee has repeated itself time and time again, and the legislation that we adopted will now prevent that.

THE CHAIR:

Thank you, Senator.

Will you remark further?

Senator Kelly.

SENATOR KELLY:

Thank you, Madam President.

Through you, I have a couple questions for the proponent of the bill.

THE CHAIR:

Please proceed, sir.

SENATOR KELLY:

With regards to these fees, what is the general amount of such a transfer fee? Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, unfortunately, I don't have that information, but they are substantial enough to be a problem for homeowners. And you know, it's like an albatross around the property where they have in some cases just been reoccurring and reoccurring until, you know, people realize that this fee is on there. So I don't have a specific percentage for the Senator.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Through you, Madam President, would these be consider an impediment to marketability? Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to the good Senator, I believe so.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

With regards to these fees, are they attached to the property or do they have any connection to the property? Through you, Madam President.

THE CHAIR:

cah/meb/gdm/gbr
SENATE

217
May 14, 2013

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to Senator Kelly, I believe they are a lien on the property.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

And for how long of a period of time do they remain, as I understand it, there would be some sort of notice on the land records, how long do they remain with the property. Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, in the past, they've remained for some time, but now under our legislation, there is a specific date when they no longer will remain.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Thank you, Senator Crisco.

With regards -- this bill will obviously change the way transfer fees are handled prospectively, but with regards to any current transfer fees already on the books, what happens in those circumstances. Through you, Madam President.

THE CHAIR:

Senator Crisco.

cah/meb/gdm/gbr
SENATE

218
May 14, 2013

SENATOR CRISCO:

Madam President, according to the language that I read, they will expire.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

So will this bill -- when you say "expire," are you talking about through the passage of time, for instance, you know, if it's 99 years, through the passage of time or will it be through the passage of this bill. Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, through you to Senator Kelly, the later through the passage of this bill.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

So under this bill both prospective treatment and retrospective so if you have a transfer fee already on the books, that's going to be for lack of a better term repealed so they're no longer effective. Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Through you, Madam President, to the Senator,

cah/meb/gdm/gbr
SENATE

219
May 14, 2013

yes.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

In the event somebody persists in trying to collect or use a transfer fee, are there any violation or penalties that can be imposed on that party. Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, I believe, to my knowledge, there are no penalties.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

And how many other states is this practice allowed? Through you, Madam President.

THE CHAIR:

Senator Crisco.

SENATOR CRISCO:

Madam President, and I could be incorrect, but through you to Senator Kelly, I believe there is a great number of states that follow this procedure.

THE CHAIR:

Senator Kelly.

SENATOR KELLY:

Madam President, this is a bill which I supported both in Insurance and in the Judiciary Committee because it does create another impediment to the conveyance of title and to the marketability of property at a time when homeowners in the real estate market is difficult in the state of Connecticut. This is an example of a bill where we can remove those types of impediments to allow homeowners to transfer their property and not enable developers to put in fees that otherwise would be difficult and problematic, and something that I know realtors have been asking for and that was the reason for my support both at that Insurance and Judiciary Committees. I stand in support of the bill and would urge its adoption.

THE CHAIR:

Thank you. Will your remark? Will you remark?

Senator Witkos.

SENATOR WITKOS:

Thank you, Madam President.

I just wanted rise publicly and thank Senator Crisco and Senator Kelly for bringing this issue forward. I mean, who would have thought one of the biggest purchases you generally make in your lifetime, your residence, that there is a fee attached that somebody, it could have been years, decades before that developed this, put this little stipulation in that they get -- that they make profit off of it between a transaction between two parties and I'm glad that this Legislature is moving forward that remove that impediment for marketability for their homes and maybe make the home purchase price a little bit cheaper between the folks so I'm glad we're passing this today. Thank you.

THE CHAIR:

Thank you.

cah/meb/gdm/gbr
SENATE

221
May 14, 2013

Will you remark further? Will you remark further?

Senator Crisco.

SENATOR CRISCO:

Thank you, Madam President.

I want to express my appreciation to Senator Kelly as ranking member of the Insurance Committee for not only his support but for his input. We've heard stories that some of these fees have stayed on the land records for some 99 years so we believe this is -- as Senator Kelly stated, a great movement in getting rid of an albatross around the homeownership.

THE CHAIR:

Thank you.

Will you remark further? Will you remark further?

Senator Crisco.

SENATOR CRISCO:

Thank you, Madam President.

If there no objection, may this be placed on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered. It's placed on the consent calendar.

Mr. Clerk.

THE CLERK:

On page 46, Calendar 222, Substitute for Senate Bill Number 952, AN ACT CONCERNING THE RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS REGARDING BED BUG INFESTATION, favorable report

The bill passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, if the Clerk might now call the items on the Consent Calendar before proceeding to a vote on that Consent Calendar.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 1, Calendar 545, Senate Resolution Number 27; also on Page 1, Calendar 546, Senate Resolution Number 28. On Page 2, Number 547, Senate Resolution Number 29. On Page 2, Number 549, Senate Resolution Number 31. On Page 5, Number 184, Senate Bill 1026. On Page 7, Calendar Number 253, Senate Bill Number 763. On Page 16, Calendar Number 412, Senate Bill Number 962. On Page 17, Calendar Number 436, Senate Bill Number 673. On Page 18, Calendar Number 438, Senate Bill Number 761. Also on Page 18, Calendar Number 443, Senate Bill Number 1056. On Page 19, Calendar Number 449, Senate Bill Number 828. On Page 20, Calendar Number 461, House Bill Number 6540.

On Page 21, Number 469, House Bill Number 6574. On Page 23, Number 480, Senate Bill Number 238. On Page 25, Calendar Number 501, House Bill Number 5799. Also on Page 25, Number 507, House Bill Number 5117. On Page 26, Calendar Number 508, House Bill Number 6571. On Page 26, Calendar Number 509, House Bill Number 6348. Also on Page 26, Calendar Number 510, House Bill Number 6007 and on Page 26, Calendar Number 512, House Bill Number 6392.

On Page 40, Calendar Number 48, Senate Bill Number 519. On Page 40, Calendar Number 60, Senate Bill Number 859. Also on Page 40, Calendar Number 104, Senate Bill Number 833.

cah/meb/gdm/gbr
SENATE

393
May 14, 2013

On Page 41, Calendar Number 107, Senate Bill Number 917. On Page 42, Calendar Number 123, Senate Bill Number 434. On Page 43, Calendar Number 129, Senate Bill Number 898. Also on Page 43, Calendar Number 139, Senate Bill Number 158. On Page 43, Calendar Number 167, Senate Bill Number 879.

On Page 45, Calendar Number 195, Senate Bill Number 816. Also on Page 45, Calendar Number 204, Senate Bill 652. On Page 47, Calendar Number 241, Senate Bill 1040. On Page 48, Calendar Number 269, Senate Bill 1003. Also on Page 48, Calendar Number 270, Senate Bill Number 1007.

On Page 50, Calendar Number 304, Senate Bill 1019. Also on Page 50, Calendar Number 310, Senate Bill 903. And finally on Page 53, Calendar Number 399, Senate Bill 1069.

THE CHAIR:

Mr. Clerk, will you call for a roll call vote. The machine will be open on the Consent Calendar.

THE CLERK:

Immediate roll call vote has been ordered in the Senate. Immediate roll call vote has been ordered in the Senate. Senators please return to the Chamber. Immediate roll call vote in the Senate.

THE CHAIR:

If all members have voted, if all members have voted the machine will be locked. Mr. Clerk, will you please call the tally.

THE CLERK:

On Consent Calendar Number 1.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and not Voting	0

THE CHAIR:

Consent Calendar is passed.

Are there any points of personal privilege?

Senator Doyle.

SENATOR DOYLE:

Thank you, Madam President.

Yeah for a point of information for the Chamber.

THE CHAIR:

Please proceed, sir.

SENATOR DOYLE:

Yes, thank you, Madam President.

Tomorrow the General Law Committee will be meeting at 11:15 outside the Hall of the House. The bulletin said 15 minutes before the early session so now we're making it definitive. Tomorrow at 11:15 outside the Hall of the House the General Law Committee will be considering one bill that was referred to us.

Thank you, Madam President.

THE CHAIR:

Thank you.

Senator Duff next.

SENATOR DUFF:

Thank you, Madam President.

For the point of announcement please.

THE CHAIR:

Please proceed, sir.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**INSURANCE AND
REAL ESTATE
PART 2
270 - 601**

2013

COMMITTEE

to file them with the department. The department is vested with the authority -- and I'll wrap up real quick -- vested with the authority to look at the rates. We have to provide them actual data. If they find they're not actuarially sufficient, that they're not justified, then we can't use them. That's not the case and it's proving that -- that we have one of the most competitive markets going. We have over a hundred companies writing auto in Connecticut.

Thank you. I'll take any questions.

REP. MEGNA: Okay; thank you.

Are there any questions? No?

Thank you, very much, Susan.

REP. MEGNA: Moving on to 859.

Rich Hogan.

RICHARD A. HOGAN: Good afternoon, Representative Megna, Senator Crisco, members of the Insurance and Real Estate Committee.

My name is Rich Hogan. I'm the Legislative and Regulatory Counsel for Connecticut Attorneys Title Insurance Company. We're a regional company, headquartered in Connecticut for almost 50 years.

I'm -- I'm speaking on behalf of my company and also speaking on behalf of the Real Property Section of the Connecticut Bar Association. That section consists of attorneys in private practice who represent consumers, lenders, business, businesses involved in real estate transactions, and we're speaking today in favor of Raised Bill 859, AN ACT CONCERNING

COMMITTEE

REGULATION OF PRIVATE TRANSFER FEES.

And I want to thank both Co-Chairmen for -- for making sure that this bill got raised this year.

Private transfer fees, if you are not aware of them, are a new and controversial financial scheme in which developers and in consultation with Wall Street advisors are attempting to add language to home purchase contracts requiring that a percentage of the sales' price be paid back to the original developer, often for a 99-year period. These fees which include a securitization element, infringe on private property rights, require homeowners to pay a large fee to sell their homes, and they are really, in effect, an ability or an effort to impose a private conveyance tax that solely benefits the developer.

And just so I'm clear, these private transfer fees are levered -- levied every time that a seller sells the property for a 99 -- 99-year period. And that money, whenever the seller sells it, goes back to that initial developer.

These private transfer fees, in our view, increase the cost of home ownership and reduce liquidity. They limit property transfers or render them legally uncertain. They impose an unreasonable restraint on alienation of property. They detract from the stability of the secondary mortgage. They expose lenders, title companies, and secondary market participants to risk from potential liens.

And I'll -- I'll sum up, very briefly. I believe almost 45 states in the country have prohibited these private transfer fees. And the secondary mortgage market, Fannie and Freddie, are -- are prohibited from -- under

COMMITTEE

regulations -- from purchasing properties that have these -- these private transfer fees.

So I would urge the committee to support the legislation.

REP. MEGNA: Thank you.

How do they initially do it? They just file something on the land record and then they do the transaction and it just sticks on the land record throughout the -- every transaction on that property for 99 years?

RICHARD A. HOGAN: Exactly.

REP. MEGNA: How does it -- how do they wind up letting it -- how does the buyer -- the buyer agrees to it? I mean, isn't it disclosed in the --

RICHARD A. HOGAN: It is and, you know, it's really what's known as a "contract of adhesion." There's no way -- no way to negotiate it; it's just a cost. If the buyer really wants that property, that's the -- the cost to do it. And it's typically going to increase the -- the seller's price, but that's -- that's the way that it operates.

REP. MEGNA: Okay.

RICHARD A. HOGAN: And -- and because it's on the land records, the buyer has no ability to say no, I'm not going to do that.

REP. MEGNA: And does it impact underwriting title insurance?

RICHARD A. HOGAN: It -- it will in the future, because typically to -- before a title insurance policy is issued, we want a

COMMITTEE

marketable, record title search, which typically is a 40-year search. So if these things were recorded last year, five years ago, ten years ago, we're going to find them. But eventually these are the type of things that will not be found in a title search, probably long after I'm retired and long after, you know, many of us are here.

But, you know, 40, 45 years from now, these things will not be searched and they will be an incumbrance on the property and will result in, you know, claims or will require the title company -- the title companies will say you -- you can't do a 40-year search, you got to do a hundred-year search. And -- and the longer you search back in time, the more costly that is.

REP. MEGNA: Is there any such thing as a -- a warranted or a good private transfer fee or --

RICHARD A. HOGAN: Well --

REP. MEGNA: -- I mean, do condominium associations have anything in there or --

RICHARD A. HOGAN: I -- I don't --

REP. MEGNA: -- that we might not want to --

RICHARD A. HOGAN: No.

REP. MEGNA: -- impact?

RICHARD A. HOGAN: I -- I think that there are some. There are groups out there, and I'm -- I'm trying to put my -- my finger on the name of them. They -- they could be housing trusts, you know, land trusts and --

REP. MEGNA: Yeah.

42 February 14, 2013
mhr/gbr INSURANCE AND REAL ESTATE 1:00 P.M.
COMMITTEE

RICHARD A. HOGAN: -- things that are for the public good, not for a -- a developer and a Wall Street advisor to, you know, securitize something.

And in states that have enacted, you know, the 45-plus states that have enacted it have found a way to --

REP. MEGNA: To close it out?

RICHARD A. HOGAN: -- adopt, put in their language a thing that would allow those type of things to go forward --

REP. MEGNA: Okay.

RICHARD A. HOGAN: -- which -- which -- and trying to prohibit the really bad ones.

REP. MEGNA: Okay. Have you seen our language?

RICHARD A. HOGAN: Yes.

REP. MEGNA: And --

RICHARD A. HOGAN: Yeah.

REP. MEGNA: -- does it take care of that issue --

RICHARD A. HOGAN: I -- I --

REP. MEGNA: -- in your opinion?

RICHARD A. HOGAN: I believe it does.

REP. MEGNA: Okay.

RICHARD A. HOGAN: I believe it does.

REP. MEGNA: Thank you.

COMMITTEE

Are there any questions?

Senator Kelly.

SENATOR KELLY: Thank you, Mr. Chairman.

Do you know if any of these are currently on land records presently in Connecticut?

RICHARD A. HOGAN: It -- it is my understanding that they are presently on land records in Connecticut.

SENATOR KELLY: Do we know where they are?

RICHARD A. HOGAN: I don't. I -- I could try to find that out for you. I've been told, secondhand, thirdhand, that they are on the land records in Connecticut. I can try to find out where -- where they might be.

SENATOR KELLY: So it's a -- the practice that's now engaged in Connecticut and this law, if passed, would prohibit that conduct.

RICHARD A. HOGAN: That's right.

SENATOR KELLY: Okay. Thank you, very much.

RICHARD A. HOGAN: Thank you.

REP. MEGNA: Thank you, Senator.

I remember hearing a few years ago that there hasn't been one case yet, one known case yet in Connecticut. But you're saying, but just through hearsay you're saying that --

RICHARD A. HOGAN: Yeah.

REP. MEGNA: -- you've heard it? Yeah.

RICHARD A. HOGAN: Just who -- yeah.

REP. MEGNA: Okay.

RICHARD A. HOGAN: And --

REP. MEGNA: I mean it's good to stop it before it begins, if it hasn't begun.

RICHARD A. HOGAN: Yeah. It -- I, you know, I have been told second or thirdhand that it -- that is it. It's certainly --

REP. MEGNA: Okay.

RICHARD A. HOGAN: -- not -- I don't want to suggest that it's prevalent.

REP. MEGNA: Yeah.

RICHARD A. HOGAN: It is much more prevalent in other parts of the country, but it is my understanding.

REP. MEGNA: And I didn't realize the impact with, what you'd say, FHA and VA? They --

RICHARD A. HOGAN: The --

REP. MEGNA: They won't approve loans with --

RICHARD A. HOGAN: Fannie and Freddie will not buy any --

REP. MEGNA: Wow.

RICHARD A. HOGAN: -- loan that has these type of restrictions on them. Their regulator, the Federal Housing Finance Agency has adopted a regulation prohibiting them from -- from purchasing mortgages.

45 February 14, 2013
mhr/gbr INSURANCE AND REAL ESTATE 1:00 P.M.
COMMITTEE

REP. MEGNA: That, in itself, is a pretty compelling argument because, I mean, that's 80 percent of the marketplace, probably.

RICHARD A. HOGAN: And -- and the fact that --

REP. MEGNA: Yeah.

RICHARD A. HOGAN: -- now over 45 states have -- have --

REP. MEGNA: Yeah.

RICHARD A. HOGAN: -- have prohibited these --

REP. MEGNA: Okay.

RICHARD A. HOGAN: -- as I understand.

REP. MEGNA: Thank you --

RICHARD A. HOGAN: Yeah.

REP. MEGNA: -- very much.

Any other questions? No?

Thank you, very much.

RICHARD A. HOGAN: Thank you for your time.

REP. MEGNA: Mr. Marconi.

TIMOTHY J. CALNEN: He's delayed.

REP. MEGNA: Oh, he is?

Tim.

TIMOTHY J. CALNEN: Thank you, Representative Megna, and Senator Crisco, and members of the Insurance and Real Estate Committee.

SB859

We, too, at the -- I'm Tim Calnen; I'm Vice President of Government Affairs for the Connecticut Association of Realtors -- and we join with the -- the title companies and the Real Property Section of the bar in asking you to approve this bill.

This is like the third year the realtors have advocated this consumer-protection piece of legislation. And, meanwhile, the figure I have, 41 states have already acted while Connecticut has not.

And as the previous speaker, Mr. Hogan, said the -- the financial -- "FHFA," it's called; it's the conservator for Fannie Mae and -- and Freddie Mac -- they're the ones that have also placed -- banned them in -- in developments where -- that are financed by Fannie and Freddie.

The bill before you offers a way, Senator Kelly, I think, to -- to care of those properties that already may have incumbrances on them. There's provisions in this bill where they have to disclose in a certain manner and provide notice on the -- on their title with the land records that -- what the impact of the fee is on the buyer 50 years from now, 99 years from now.

But we have not, as a trade association of 15,000 members, seen a whole lot of -- of this in Connecticut, very frankly. I have had one realtor mention it coming up in a condominium, down in Southwestern Connecticut, that -- but like you said, Representative Megna, it's probably a good idea to stop it before it -- it pops up. So we urge your approval of it.

And I'm not an expert on it. I expect Attorney

47 February 14, 2013
mhr/gbr INSURANCE AND REAL ESTATE 1:00 P.M.
COMMITTEE

Gene Marconi to be here shortly.

The bill does, in -- in Section 2 -- well, where -- where it -- I can't even read a section number here. Section 1, Subsection 7, it talks about unit owners associations for condominiums. Those fees are okay because the -- the money comes back to benefit the association.

And a little further on you'll see, like, the land trusts or 501(c) organizations. Where that money actually comes back to the benefit of the underlying property, that's okay. But this idea of channeling the money to a developer or worse still to a Wall Street aide, a financial securitization firm, that's what we're trying to stop.

I'd be happy to take any questions.

REP. MEGNA: Okay; thank you.

I think he's here, on the other side.

Are there any questions?

TIMOTHY J. CALNEN: And Attorney Marconi just --

REP. MEGNA: Yeah, I know.

TIMOTHY J. CALNEN: -- walked --

REP. MEGNA: I just saw him come in. Yeah.

Good timing. You're up next, Mr. Marconi.
It's on 859 --

EUGENE A. MARCONI: Eight-five-nine?

REP. MEGNA: Private transfer fees; one of your favorite subjects.

EUGENE A. MARCONI: A frequent subject.

Good afternoon, Chairman Crisco, Chairman Megna, members of the committee.

My name is Eugene Marconi; I'm the General Counsel for the Connecticut Association of Realtors and have the privilege of representing our some 15,000 members in Connecticut. I'm here to speak in favor of S.B. 859, which is AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES.

A private transfer fee -- and the association supports this bill -- a private transfer fee is one that's usually established by a deed covenant, and those deed covenants last anywhere from 20 years to 99 years. And the whole purpose of them is to generate an income stream which can then be assigned to a Wall Street firm to securitize.

What the -- what the deed covenant does is it would require anybody selling a property in that development during the life of the covenant to pay typically one percent of some other percentage to a -- a trustee who is collecting the income stream that's going to end up being securitized.

Nothing in the fee benefits the development. It doesn't benefit the homeowners. There is some concern as to whether these are even legally viable, since they don't touch and concern the -- the land, itself, on which they're imposed. But of course, you know, your average homeowner is not going to be prepared to challenge a covenant like that and incur thousands of dollars worth of attorneys' fees, they'll -- they'll just pay it.

COMMITTEE

There have been 41 states that have banned these things or very highly regulated them. The -- the vast majority have simply banned them. The FHFA, which is the conservator for Fannie Mae and Freddie Mac, has said they will not take a mortgage in a development that has one of these fees, and we would just as soon see Connecticut be state number 42 and -- and ban them.

So, with that, unless there's any questions --

REP. MEGNA: Thank you, very much.

Are there any questions? No?

Thank you, very much, Attorney.

EUGENE A. MARCONI: Thank you.

REP. MEGNA: Moving on to 5637.

Dennis Slopak.

DENNIS R. SLOPAK: Good afternoon and thank you for having me here. My name is Dennis Slopak; I live in Norwich, Connecticut, and I am a certified residential real estate appraiser here in Connecticut.

Since 2009, appraisers in Connecticut and all over America have become slaves to appraisal management companies. Due to a regulation formatted by the government-sponsored enterprises, no appraiser can contact any mortgage lender and ask to perform appraisal services nor can any mortgage lender call an appraiser and ask them to perform an appraisal. Instead, lenders must order appraisals from AMCs and then the AMCs assign the work to appraisers.

Page 7
Line 13



CONNECTICUT ASSOCIATION OF
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INC

Statement on
S.B. 859: An Act Concerning the Regulation of Private Transfer Fees

SUPPORT

Submitted to the Joint Committee on Insurance and Real Estate
February 14, 2013

By Eugene A. Marconi, General Counsel
Connecticut Association of REALTORS[®], Inc.

Good afternoon, Chairman Crisco, Chairman Megna, and members of the committee. My name is Eugene Marconi and I am the general counsel of the Connecticut Association of REALTORS[®]. I have the privilege of testifying on behalf of the Association's nearly 15,000 members in support of S.B. No. 859 an Act Concerning the Regulation of Private Transfer Fees. The Association thanks the Chairs and the Committee for raising this bill and supports the bill

Private transfer fees are a Wall Street "financial innovation". The private transfer fee is imposed by a developer as part of the deed covenants and restrictions in a real estate development. This particular deed covenant requires the payment of a percentage of the sales price to the developer or the developer's assignee whenever property in the development is transferred during the term of the deed covenant. The developer assigns the rights to this income stream to a financial firm in return for a lump sum payment. The deed covenants creating the transfer fee typically have a life span of 99 years.

Private transfer fees of this nature are legally questionable since they do not "touch and concern" or benefit the subject land itself, and in some states, they have been successfully challenged on that basis. Individual home owners however, do not have the wherewithal to challenge these fees in court, and the fees serve only as an additional,

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private conveyance tax on property. Further, since these fees are often buried in multi-page declarations of covenants and restrictions, they can be a big surprise to a homeowner or the homeowner's heirs when it comes time to sell the property. Finally, the fees do nothing to improve or maintain the development or any amenities or otherwise inure to the benefit of the owners in the development. For these reasons, FHFA, the conservator for Fannie Mae and Freddie Mac, has refused to finance transactions in developments where the fees exist, and 41 states have already banned or severely restricted these fees. Connecticut should be number 42

Thank you for your consideration and I look forward to any questions or comments the committee may have



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Pages
Line 20

To: Members of the Insurance and Real Estate Committee
 From: Richard Hogan, Legislative and Regulatory Counsel – CATIC
 Re: Raised Bill – 859 - AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER FEES

This testimony is submitted on behalf of Connecticut Attorneys Title Insurance Company and the Real Property Section of the Connecticut Bar Association. The Real Property Section consists primarily of attorneys in private practice who represent consumers, businesses, lenders and others in real estate transactions. Our members have a great interest in legislation pertaining to the title to real property.

Private Transfer Fees are a new and controversial financial scheme in which, developers, in consultation with Wall Street advisers, are attempting to add language to home purchase contracts requiring that a percentage of the sales price be paid to the original corporate owner of a property every time the property is sold, typically for 99 years. The fees, which include a securitization element, infringe on property rights, and require homeowners to pay a large fee to sell their homes. They are, in effect, an attempt to impose a private conveyance tax that solely benefits the developer.

These Private Transfer Fees may

- Increase the costs of homeownership and reduce liquidity in both primary and secondary mortgage markets,
- Limit property transfers or render them legally uncertain;
- Impose an unreasonable restraint on alienation and make properties burdened by such restrictions difficult to sell;
- Detract from the stability of the secondary mortgage market if such fees will be securitized;
- Expose lenders, title companies and secondary market participants to risks from unknown potential liens and title defects,
- Reduce transparency for consumers because Private Transfer Fees often are not disclosed by sellers and are difficult to discover through customary title searches.

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At the state level, over 40 states have bans or restrictions in place on Private Transfer Fees.

A few years ago, the Federal Housing Finance Agency (FHFA) proposed a rule that would limit Fannie Mae, Freddie Mac and the Federal Home Loan Bank from investing in mortgages encumbered by Private Transfer Fee covenants. The FHFA took an important step by submitting a rule that limits the spread of this predatory scheme, which adversely impacts the stability of the housing and mortgage market. The proposed rule excludes fees paid to homeowner associations, condominiums, cooperatives and certain tax-exempt organizations that use Private Transfer Fees proceeds to benefit the property.