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(Original Signature of Member)

111TH CONGRESS
2D SESSION

H. R.

To enhance disclosure of private transfer fees in real estate transactions.

IN THE HOUSE OF REPRESENTATIVES

Mr. GINGREY of Georgia introduced the following bill; which was referred to
the Committee on _____

A BILL

To enhance disclosure of private transfer fees in real estate
transactions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Homebuyer Enhanced
5 Fee Disclosure Act of 2010”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 The Congress finds that transfer fee covenants rep-
8 resent an important economic tool with the potential to
9 make homeownership more affordable and benefit local

1 communities by positively restructuring the economics of
2 real estate transactions by apportioning certain infrastruc-
3 ture and overhead costs over time.

4 **SEC. 3. RECORDATION OF TRANSFER FEES.**

5 (a) RECORDATION REQUIREMENT.—A transfer fee
6 covenant recorded on or after the date of the enactment
7 of this Act shall be void and unenforceable unless, at the
8 time the document containing the transfer fee covenant
9 is submitted for recording, a notice described in subsection
10 (b) is contemporaneously submitted for recording in the
11 office of the applicable county recorder.

12 (b) NOTICE REQUIREMENTS.—Notice required under
13 subsection (a) shall—

14 (1) be titled, in boldface type, “Payment of
15 Transfer Fee Required”;

16 (2) include statements of—

17 (A) the name or names of the owner or
18 owners of the affected property;

19 (B) the legal description of the affected
20 property;

21 (C) the dollar amount or, if applicable, the
22 percentage of sales price constituting the trans-
23 fer fee required to be paid under the transfer
24 fee covenant;

1 (D) the method and manner of payment of
2 the transfer fee;

3 (E) in the case of affected property that is
4 residential property, actual dollar-cost examples
5 of the amount of the transfer fee for property
6 priced at \$250,000, \$500,000, and \$750,000;
7 and

8 (F) if applicable, the date on which or cir-
9 cumstances under which the transfer fee cov-
10 enant expires.

11 (c) PRESUMPTION OF VALIDITY.—A transfer fee cov-
12 enant that imposes a transfer fee of not more than 1 per-
13 cent of the gross sales price for the affected property, ef-
14 fective for a term of not more than 99 years, and which
15 complies with the requirements under subsections (a) and
16 (b) shall be presumed to be valid.

17 (d) LIMITATION.—No property shall be subject to
18 more than one transfer fee covenant.

19 **SEC. 4. DEFINITIONS.**

20 For purposes of this section, the following definitions
21 shall apply:

22 (1) AFFECTED PROPERTY.—The term “affected
23 property” means, with respect to a transfer fee cov-
24 enant, the real property that is encumbered by the
25 transfer fee covenant.

1 (2) APPLICABLE COUNTY RECORDER.—The
2 term “applicable county recorder” means, with re-
3 spect to affected property, the recorder of the county
4 in which the affected property is located.

5 (3) TRANSFER FEE.—The term “transfer fee”
6 means a fee, charge or payment imposed by a cov-
7 enant, restriction, or similar document filed in the
8 applicable county recorder’s office and required to be
9 paid in connection with or as a result of a transfer
10 of title to affected property, but does not include
11 fees, charges, payments, or other obligations that—

12 (A) are imposed by a court judgment,
13 order, or decree;

14 (B) are imposed by or payable to the Fed-
15 eral Government or a State or local govern-
16 ment;

17 (C) arise out of a mechanic’s lien;

18 (D) arise from an option to purchase, or
19 for waiver of the right to purchase, the affected
20 property;

21 (E) are payable to a homeowners associa-
22 tion, condominium association, or similar entity
23 for the benefit of the owners; and

24 (F) are imposed by or payable to lenders
25 or purchasers of loans.

1 (4) TRANSFER FEE COVENANT.—The term
2 “transfer fee covenant” means a covenant, restric-
3 tion, or agreement filed with the office of the appli-
4 cable county recorder that—

5 (A) affects real property; and

6 (B) obligates a future buyer or seller of the
7 affected real property, other than a person who
8 is a party to the covenant, restriction, or agree-
9 ment, to pay a transfer fee.