



29 equitable principles.

30 (2) DEFINITIONS.--As used in this section, the term:

31 (a) "Environmental covenant" means a covenant or servitude  
32 that imposes limitations on the use of real property pursuant to  
33 an environmental remediation project pertaining to the property.  
34 An environmental covenant is not a transfer fee covenant.

35 (b) "Transfer" means the sale, gift, conveyance,  
36 assignment, inheritance, or other transfer of an ownership  
37 interest in real property located in this state.

38 (c) "Transfer fee" means a fee or charge payable upon the  
39 transfer of an interest in real property, or payable for the  
40 right to make or accept such transfer, regardless of whether the  
41 fee or charge is a fixed amount or is determined as a percentage  
42 of the value of the property, the purchase price, or other  
43 consideration given for the transfer. The following are not  
44 transfer fees for purposes of this section:

45 1. Any consideration payable by the grantee to the grantor  
46 for the interest in real property being transferred, including  
47 any subsequent additional consideration for the property payable  
48 by the grantee based upon any subsequent appreciation,  
49 development, or sale of the property.

50 2. Any commission payable to a licensed real estate broker  
51 for the transfer of real property pursuant to an agreement  
52 between the broker and the grantor or the grantee, including any  
53 subsequent additional commission for that transfer payable by  
54 the grantor or the grantee based upon any subsequent  
55 appreciation, development, or sale of the property.

56 3. Any interest, charges, fees, or other amounts payable

57 by a borrower to a lender pursuant to a loan secured by a  
58 mortgage against real property, including, but not limited to,  
59 any fee payable to the lender for consenting to an assumption of  
60 the loan or a transfer of the real property subject to the  
61 mortgage, any fees or charges payable to the lender for estoppel  
62 letters or certificates, and any shared appreciation interest or  
63 profit participation or other consideration described in s.  
64 687.03(4) and payable to the lender in connection with the loan.

65 4. Any rent, reimbursement, charge, fee, or other amount  
66 payable by a lessee to a lessor under a lease, including, but  
67 not limited to, any fee payable to the lessor for consenting to  
68 an assignment, subletting, encumbrance, or transfer of the  
69 lease.

70 5. Any consideration payable to the holder of an option to  
71 purchase an interest in real property or the holder of a right  
72 of first refusal or first offer to purchase an interest in real  
73 property for waiving, releasing, or not exercising the option or  
74 right upon the transfer of the property to another person.

75 6. Any tax, fee, charge, assessment, fine, or other amount  
76 payable to or imposed by a governmental authority.

77 7. Any fee, charge, assessment, fine, or other amount  
78 payable to a homeowners', condominium, cooperative, mobile home,  
79 or property owners' association pursuant to a declaration or  
80 covenant or law applicable to such association, including, but  
81 not limited to, fees or charges payable for estoppel letters or  
82 certificates issued by or on behalf of the association.

83 8. Any fee, charge, assessment, dues, contribution, or  
84 other amount imposed pursuant to a declaration or covenant

85 encumbering four or more parcels in a community, as defined in  
86 s. 720.301, and payable to a nonprofit organization for the  
87 purpose of supporting cultural, educational, charitable,  
88 recreational, or other similar activities benefiting the  
89 community that is subject to the declaration or covenant.

90 9. Any payment required pursuant to an environmental  
91 covenant.

92 (d) "Transfer fee covenant" means a declaration or  
93 covenant purporting to affect real property which requires or  
94 purports to require the payment of a transfer fee to the  
95 declarant or other person specified in the declaration or  
96 covenant or to their successors or assigns upon a subsequent  
97 transfer of an interest in the real property.

98 (3) PROHIBITION.--A transfer fee covenant recorded in this  
99 state on or after July 1, 2008, does not run with the title to  
100 real property and is not binding on or enforceable at law or in  
101 equity against any subsequent owner, purchaser, or mortgagee of  
102 any interest in real property as an equitable servitude or  
103 otherwise. Any lien purporting to secure the payment of a  
104 transfer fee under a transfer fee covenant recorded in this  
105 state on or after July 1, 2008, is void and unenforceable. This  
106 subsection does not mean that transfer fee covenants or transfer  
107 fee liens recorded in this state before July 1, 2008, are  
108 presumed valid and enforceable.

109 Section 2. This act shall take effect July 1, 2008.