

**Senate Study Bill 3181 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON COMMERCE BILL BY  
CHAIRPERSON WARNSTADT)

**A BILL FOR**

1 An Act prohibiting the running of a transfer fee covenant with  
2 the title to real property.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 558.48 Transfer fee covenant —  
2 prohibition.

3 1. For purposes of this section, unless the context  
4 otherwise requires:

5 a. "Transfer" means the sale, gift, conveyance, assignment,  
6 inheritance, or other transfer of ownership interest in real  
7 property located in this state.

8 b. (1) "Transfer fee" means a fee or charge payable upon  
9 the transfer of an interest in real property, or payable for  
10 the right to make or accept a transfer of an interest in real  
11 property, regardless of whether the fee or charge is a fixed  
12 amount or is determined as a percentage of the value of the  
13 property, the purchase price, or other consideration given for  
14 the transfer.

15 (2) "Transfer fee" does not include any of the following:

16 (a) Any consideration payable by the transferee to the  
17 transferor for the interest in real property being transferred.

18 (b) Any commission payable to a licensed real estate broker  
19 for the transfer of real property under an agreement between  
20 the broker and the transferee or transferor.

21 (c) Any interest, charges, fees, or other amounts payable  
22 by a borrower to a lender under a loan secured by a mortgage  
23 against real property, including but not limited to any  
24 fee payable to the lender for consenting to an assumption  
25 of the loan or a transfer of the real property subject to  
26 the mortgage, any fees or charges payable to the lender for  
27 estoppel letters or certificates, and any other consideration  
28 allowed by law and payable to the lender in connection with the  
29 loan.

30 (d) Any rent, reimbursement, charge, fee, or other amount  
31 payable by a lessee to a lessor under a lease, including but  
32 not limited to any fee payable to the lessor for consenting  
33 to an assignment, subletting, encumbrance, or transfer of the  
34 lease.

35 (e) Any consideration payable to the holder of an option to

1 purchase an interest in real property or the holder of a right  
2 of first refusal or first offer to purchase an interest in real  
3 property for waiving, releasing, or not exercising the option  
4 or right upon the transfer of the property to another person.

5 (f) Any tax, fee, charge, assessment, fine, or other amount  
6 payable to or imposed by a governmental authority.

7 c. "*Transfer fee covenant*" means a declaration or covenant  
8 purporting to affect real property which requires or purports  
9 to require the payment of a transfer fee to the declarant or  
10 other person specified in the covenant or declaration, or to  
11 their successors or assigns, upon a subsequent transfer of an  
12 interest in the real property.

13 2. A transfer fee covenant shall not run with the title to  
14 real property and is not binding on or enforceable at law or in  
15 equity against any subsequent owner, purchaser, or mortgagee  
16 of any interest in the real property as an equitable servitude  
17 or otherwise. Any lien purporting to secure the payment of a  
18 transfer fee under a transfer fee covenant state on or after  
19 July 1, 2010, is void and unenforceable.

20 EXPLANATION

21 This bill prohibits the running of a transfer fee covenant  
22 with the title to real property.

23 The bill defines a transfer fee to mean a fee or charge  
24 payable upon the transfer of an interest in real property,  
25 or payable for the right to make or accept a transfer of an  
26 interest in real property, regardless of whether the fee or  
27 charge is a fixed amount or is determined as a percentage  
28 of the value of the property, the purchase price, or other  
29 consideration given for the transfer. The bill defines  
30 a transfer fee covenant to mean a declaration or covenant  
31 purporting to affect real property which requires or purports  
32 to require the payment of a transfer fee to the declarant or  
33 other person specified in the covenant or declaration, or to  
34 their successors or assigns, upon a subsequent transfer of an  
35 interest in real property.

1 The bill provides that a transfer fee covenant shall not  
2 run with the title to real property and is not binding on or  
3 enforceable at law or in equity against any subsequent owner,  
4 purchaser, or mortgagee of any interest in real property. The  
5 bill states that any lien purporting to secure the payment of a  
6 transfer fee under a transfer fee covenant after July 1, 2010,  
7 is void and unenforceable.

8 The bill specifies various types of consideration,  
9 commissions, interests, charges, fees, rent, reimbursement,  
10 taxes, assessments, or fines that do not constitute a transfer  
11 fee and would accordingly not be subject to the prohibition.