



FloridaRealtors®

The Voice for Real Estate® in Florida

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September 8, 2010

Edward J. DeMarco, Acting Director  
Federal Housing Finance Agency  
1700 G Street, NW, 4th Floor  
Washington, DC 20552

Dear Mr. DeMarco:

On behalf of 115,000 Florida Realtors®, I am writing in support of the Federal Housing Finance Agency's (FHFA's) proposed guidance on the use of private transfer fees for the Federal Home Loan Banks (FHLBs) and Fannie Mae and Freddie Mac. We fully support the FHFA guidance that states the FHLBs and the GSEs should not purchase mortgages encumbered by private transfer fees and that such purchases are not safe or sound investments. **In fact, with strong support from the Florida Realtors®, our state legislature enacted a bill in 2008 to prohibit private transfer fees in Florida. This language can now be found in s. 689.28, Florida Statutes.**

A private transfer fee commonly occurs when a developer agrees to add a covenant to the deed of each new home, or a homeowner agrees to add a covenant to an existing home's deed, that requires future owners of the property to pay a percentage of the selling price to a designated beneficiary. While the percentage fee paid is tied to the home price, it does not correlate with any tangible benefit received by the home buyer. The transfer fee rule is a covenanted mandate so it is extremely difficult to reverse the requirement once in place. In many cases the fee is attached to the deed for up to 99 years - subsequent buyers may pay a fee where no service was rendered or benefit received.

Private transfer fees increase the cost of homeownership, do little more than generate revenue for developers or investors and provide no benefit to homebuyers. They place an inappropriate drag on the transfer of property. There is virtually no oversight on where or how proceeds can be spent, on how long a private transfer fee may be imposed, or on how the fees should be disclosed to home buyers. Nevertheless, one company is already negotiating with institutional investors to "securitize" pools of transfer fees, which will essentially create bonds that can be sold on a secondary market, based on the future cash flows.

HUD has confirmed that private transfer fees clearly violate HUD's regulations which prohibit legal restrictions on conveyance and require lenders to convey clear marketable title.

Thank you for your time and consideration of this matter.

Sincerely,

Wendell D. Davis, CRB, GRI  
President



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