

§ 39A-3. Transfer fee covenants prohibited.

(a) Any transfer fee covenant or any lien that is filed to enforce a transfer fee covenant or purports to secure payment of a transfer fee, shall not run with the title to real property and is not binding on or enforceable at law or in equity against any subsequent owner, purchaser, or mortgagee of any interest in real property as an equitable servitude or otherwise.

(b) A person who records a transfer fee covenant, files a lien that purports to secure payment of a transfer fee, or enters into an agreement imposing a private transfer fee obligation shall be liable for:

- (1) Any and all damages resulting from the imposition of the transfer fee obligation on the transfer of an interest in the real property, including the amount of any transfer fee paid by a party to the transfer.
- (2) All attorney fees, expenses, and costs incurred by a party to the transfer or mortgagee of the real property to recover the transfer fee paid or in connection with an action to quiet title or register the title or a proceeding subsequent to initial registration. If an agent acts on behalf of a principal to file or secure a private transfer fee obligation, liability shall be assessed to the principal, but not to the agent. (2010-32, s. 1.)