

**Triplicate Billing Tolerated With HOA Transfer Fees: (HB 16-1133 (Attempted) to Address Abuse)  
How this cost home owners upwards of \$10 million a year in unjustified and “illegal fees”)**

HOA Home Sale Transfer Fee costs HOA home owners upwards of \$10 million a year. The fee is charged to home sellers on the sale of a home in an HOA. HB 16-1133, HOA Manager Professional Responsibility and Disclosure, would have modified the HOA Property Manager Licensing law to require full and meaningful disclosure of this fee and require a receipt of services for any charge be provided to the home owner: it was defeated by lobbyist. The Bill would not have precluded any HOA Community Association Manager (CAM) from recovering expenses and will not limit the amount of the fee: it only requires justification, documentation (receipt to payee), and only be assessed to the home seller in compliance with State and Federal law. Here’s how it works, why it is unjustified, illegal and why legislative action in the form of modifying the licensing law is required: (also read the [“dirty dozen” reasons](#) explaining why this fee is unjustified, illegal and results in duplicate billing)

a) **HOA home owners pay monthly dues.** The dues cover such community expenses as snow removal, landscaping, and expenses for maintenance of common areas. They also pay for administrative costs such as updating the HOA home owner’s directory, billings and collections, covenant enforcement, routine legal costs, maintaining a web site, posting HOA governing documents on the web site, administrative staff, and other operational costs. In most cases the money is well spent contributing to the aesthetics and positive property values. These tasks are normally completed by an HOA property management company (PM) and paid for with HOA dues.

b) **When an HOA home is sold a PM Transfer Fee is charged** to the seller (or buyer). The fee doesn’t benefit the HOA but is pocketed by the PM. The fee amount is determined by the PM without any justification required or need to provide a receipt to the payee, it ranges from \$0 to over \$1,000, has little if any relation to “claimed” work performed, and if not paid the home can’t be sold. The “claimed” justification for the fee is that the sale of the home resulted in extraordinary and uncompensated expenses for the PM. The “claimed” expenses specifically relate to updating administrative and financial records, providing a copy of the HOA governing documents to the buyer, and issuing a Status Letter (basically a final billing) to the buyer indicating the financial status (are HOA dues current, any owed special assessments or fines, or other obligations) of the home seller with the HOA on the date of sale. Average Transfer Fee in Colorado: \$350. Here's the problem and why the Transfer Fee justification for PM cost recovery results in a duplicate (read on further as it can be triplicate) billing:

1. Updating administrative records and other office tasks upon the sale of a home doesn't result in additional expenses to the PM. Think in terms of divorce, marriage, death, someone moving in or out, changing a bank account for payments, change of contact information, etc. There is no separate charge to the home owner in these events because such work is baseline and already paid for in HOA dues. A home sale is not unique or extraordinary in this respect thus all work related to who owns and lives in the home or pays the HOA dues are already paid for with HOA dues. A Transfer Fee **can’t be justified on this argument**. Such charges are thus duplicative and a deceptive business practice.

2. The Status Letter in any other business is referred to as a final billing. This is no different than what one receives when terminating their TV cable service, utilities, or health club membership: it’s called the final bill. Producing the Status Letter is a routine task, has all the detail and is official and is already paid for with HOA dues. There is no legal requirement to fulfill the Status Letter other than producing a final billing. If the final bill is valid, accurate, and official throughout the year why is it not upon the sale of the home? Home owners are not charged when they request a current billing at any other time except when they move?

3. Does providing HOA governing documents to the buyer justify a Transfer Fee? These are mostly available free of charge on the HOA web site. The PM doesn't maintain these legal documents nor are they changed upon the sale of a home. The cost to provide these to a home buyer or Title Company via email or compact disc is no cost to nearly unmeasurable and considered routine services already paid for via HOA dues

4) When a home is sold in an HOA the Title Company is required to provide the buyer with a Status Letter and a copy of the HOA governing documents. The PM often charges the Title Company for this service that passes the charges onto the buyer/seller (labeled a Document Processing Fee on Closing documents: average \$175). If this charge sounds familiar it is because this task was already paid for with HOA dues, then again with the Transfer Fee. The other term for it is "triplicate billing".

5) To add insult to injury: HOA Transfer Fees in Colorado can only be legally charged by a PM if such charges represent unique and unreimbursed costs incurred by the PM in relation to the sale of a home: SB 11-234. The HOA Transfer Fee fails this test. If the home involves an FHA-HUD loan, HOA Transfer Fees not benefiting the HOA (retained by the HOA) are not legal.

6) HB 16-1133 allows for all extraordinary expenses incurred by a CAM when a home is sold to be recovered as long as justified, documented on a receipt to the home seller, don't represent duplicate or triplicate billing, and are in compliance with the law. HB 16-1133 mandates full and documented disclosure.

The fee continues "because it can" with challenges for reform killed through Community Association Institute (CAI) efforts who oppose item 6 above. What is it about the HOA Transfer Fee that allows it to be assessed to home owners like no other charge and with no required justification or documentation that in any other business would not be tolerated? HB 16-1133 would have been a good beginning to ensuring the HOA Transfer Fee is justified by work performed.