

382.792 Definitions for KRS 382.792 to 382.796.

As used in KRS 382.792 to 382.796:

- (1) "Payee" means the person or entity who claims the right to receive or collect a private transfer fee payable under a private transfer obligation;
- (2) "Private transfer fee" means a fee or charge payable upon the transfer of an interest in real property, or payable for the right to make or accept the transfer, regardless of whether the fee or charge is a fixed amount or is stated as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. A private transfer fee shall not include:
 - (a) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development, or sale of the property if such additional consideration is payable on a one (1) time basis only and the obligation to make such payment does not bind successors in title to the property. For the purposes of this paragraph, an interest in real property may include a separate mineral estate and its appurtenant surface access rights;
 - (b) Any commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the grantor or the grantee, including but not limited to any subsequent additional commission for that transfer payable by the grantor or the grantee based upon any subsequent appreciation, development, or sale of the property;
 - (c) Any interest, charges, fees, or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property, including but not limited to any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the mortgage, any fees or charges payable to the lender for estoppel letters or certificates, and any shared appreciation interest or profit participation or other consideration and payable to the lender in connection with the loan;
 - (d) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease, including but not limited to any fee payable to the lessor for consenting to an assignment, subletting, encumbrance, or transfer of the lease;
 - (e) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the real property to another person;
 - (f) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental authority;
 - (g) Any fee, charge, assessment, dues, fine, contribution, or other amount payable to a homeowners', condominium, cooperative, mobile home, or property owners' association pursuant to a declaration or covenant or law applicable to such association, including but not limited to fees or charges payable for

- estoppel letters or certificates issued by the association or its authorized agent;
- (h) Any fee, charge, assessment, dues, fine, contribution, or other amount imposed by a declaration or covenant encumbering real property, and payable solely to a nonprofit or charitable organization for the purpose of supporting cultural, educational, charitable, recreational, environmental, conservation, or other similar activities benefiting the real property subject to the declaration or covenant or the community in which the real property is located; and
 - (i) Any fee, charge, assessment, dues, fine, contribution, or other amount pertaining solely to the purchase or transfer of a club membership relating to real property owned by the member, including but not limited to any amount determined by reference to the value, purchaser price, or other consideration given for the transfer of the real property;
- (3) "Private transfer fee obligation" means an obligation arising under a declaration or covenant recorded against the title to real property or under any other contractual agreement or promise, whether or not recorded, that requires or purports to require the payment of a private transfer fee upon a subsequent transfer of an interest in real property; and
- (4) "Transfer" means the sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property.

Effective: April 11, 2012

History: Created 2012 Ky. Acts ch. 118, sec. 1, effective April 11, 2012.