

HOUSE BILL NO. HB0025

Private transfer fee obligations.

Sponsored by: Representative(s) Stubson, Brown, Greear,
Greene and Illoway and Senator(s) Scott

A BILL

for

1 AN ACT relating to real property; prohibiting the creation
2 of private transfer fee obligations; providing definitions;
3 and providing for an effective date.

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5 *Be It Enacted by the Legislature of the State of Wyoming:*

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7 **Section 1.** W.S. 34-28-101 through 34-28-103 are
8 created to read:

9

10 CHAPTER 28

11 PRIVATE TRANSFER FEES

12

13 **34-28-101. Definitions.**

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15 (a) As used in this chapter:

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1 (i) "Transfer" means the sale, gift, conveyance,
2 assignment, inheritance or other transfer of an ownership
3 interest in real property located in this state;

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5 (ii) "Private transfer fee" means a fee or
6 charge payable upon the transfer of an interest in real
7 property, or payable for the right to make or accept such
8 transfer, regardless of whether the fee or charge is a
9 fixed amount or is determined as a percentage of the value
10 of the property, the purchase price or other consideration
11 given for the transfer. "Private transfer fee" shall not
12 include the following:

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14 (A) Any consideration payable by the
15 grantee to the grantor for the interest in real property
16 being transferred, including any subsequent additional
17 consideration for the property payable by the grantee based
18 upon any subsequent appreciation, development or sale of
19 the property, provided such additional consideration is
20 payable on a one (1) time basis only and the obligation to
21 make such payment does not bind successors in title to the
22 property. For the purposes of this subparagraph, an
23 interest in real property may include a separate mineral
24 estate and its appurtenant surface access rights;

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2 (B) Any commission payable to a licensed
3 real estate broker for the transfer of real property
4 pursuant to an agreement between the broker and the grantor
5 or the grantee, including any subsequent additional
6 commission for that transfer payable by the grantor or the
7 grantee based upon any subsequent appreciation, development
8 or sale of the property;

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10 (C) Any interest, charges, fees or other
11 amounts payable by a borrower to a lender pursuant to a
12 loan secured by a mortgage against real property,
13 including, but not limited to, any fee payable to the
14 lender for consenting to an assumption of the loan or a
15 transfer of the real property subject to the mortgage, any
16 fees or charges payable to the lender for estoppel letters
17 or certificates and any other consideration allowed by law
18 and payable to the lender in connection with the loan;

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20 (D) Any rent, reimbursement, charge, fee or
21 other amount payable by a lessee to a lessor under a lease,
22 including, but not limited to, any fee payable to the
23 lessor for consenting to an assignment, subletting,
24 encumbrance or transfer of the lease;

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(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 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, fine 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 the association;

(H) Any fee, charge, assessment, dues, contribution or other amount pertaining 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, purchase price

1 or other consideration given for the transfer of the real
2 property.

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4 (iii) "Private transfer fee obligation" means an
5 obligation arising under a declaration or covenant
6 purporting to affect real property that requires or
7 purports to require the payment of a private transfer fee
8 to the declarant or other person specified in the
9 declaration, covenant or agreement, or to their successors
10 or assigns, upon a subsequent transfer of an interest in
11 the real property.

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13 **34-28-102. Prohibition.**

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15 A private transfer fee obligation recorded or entered into
16 in this state on or after April 1, 2012 does not run with
17 the title to real property and is not binding on or
18 enforceable at law or in equity against any subsequent
19 owner, purchaser or mortgagee of any interest in real
20 property as an equitable servitude or otherwise.

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22 **34-28-103. Recording of existing private transfer fee**
23 **obligations; jurisdictions; affidavit of payment.**

(a) The payee of a private transfer fee obligation imposed prior to April 1, 2012 shall record a notice of private transfer fee obligation in the office of the clerk for each county in which the real property is located. The notice recorded shall disclose the existence of the private transfer fee and the nature of the obligation.

(b) No court in the state of Wyoming shall have jurisdiction to enforce a private transfer fee obligation which is not recorded as provided in subsection (a) of this section against a bonafide purchaser who receives title to the property after April 1, 2012.

(c) Filing of an affidavit by a grantor with the clerk for each county in which the real property is located stating that payment in full of any private transfer fee obligation was sent by certified mail to the payee at the address listed in the document recorded under subsection (a) of this section is prima facie evidence of satisfaction of the obligation.

Section 2. This act is effective July 1, 2012.

(END)