

---

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

Arnold

HB No. 1133

**Abstract:** Prohibits private transfer fee obligations.

Proposed law provides for legislative intent.

Proposed law provides for definitions.

Proposed law provides that a "private transfer fee" means a fee or charge required by a private transfer fee obligation and payable upon the transfer of an interest in a corporeal immovable, or payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the corporeal immovable, the purchase price, or other consideration given for the transfer.

Proposed law prohibits a private transfer fee obligation on or after the effective date of this Act.

Proposed law provides that any person who records or enters into an agreement imposing a private transfer fee obligation in their favor after the effective date of this legislation shall be liable for any and all damages resulting from the imposition of the transfer fee obligation on the transfer of an interest in a corporeal immovable and all attorney's fees, expenses, and costs incurred by a party to the transfer or mortgagee of the immovable to recover any transfer fee paid or in connection with an action to quiet title.

Proposed law requires a seller of a corporeal immovable to furnish to any purchaser a written statement disclosing the existence of any private transfer fee obligation.

Proposed law provides that a private transfer fee obligation imposed prior to the effective date of this Act, the receiver of the fee shall record, prior to December 31, 2010, against the corporeal immovable subject to the private transfer fee obligation, a separate document in the conveyance records of the parish in which the corporeal immovable is located that meets all of the following requirements:

- (1) The title of the document shall be "Notice of Private Transfer Fee Obligation" in at least 14-point boldface type.
- (2) The amount, if the fee is a flat amount, or the percentage of the sales price constituting the cost of the transfer fee, or such other basis by which the transfer fee is to be calculated.

- (3) If the corporeal immovable includes a residential use, actual dollar-cost.
- (4) The date or circumstances under which the private transfer fee obligation expires, if any.
- (5) The purpose for which the funds from the private transfer fee obligation will be used.
- (6) The name of the person or entity to which funds are to be paid and specific contact information regarding where the funds are to be sent.
- (7) The acknowledged signature of the payee.
- (8) The legal description of the corporeal immovable burdened by the private transfer fee obligation.

Proposed law allows for an amendment to the notice of transfer fee.

Proposed law allows in certain circumstances the seller of any corporeal immovable burdened by the private transfer fee obligation to proceed with the conveyance of any interest in the corporeal immovable to any buyer and not be subject to any obligations under the private transfer fee obligation if the payee fails to file the notice requirement.

Proposed law provides that an affidavit shall be recorded in the conveyance records of the parish in which the corporeal immovable is located prior to or simultaneously with the conveyance of the corporeal immovable unburdened by a private transfer fee obligation. The affidavit filed shall state that the affiant has actual knowledge of, and is competent to testify to, the facts in the affidavit and include the legal description of the corporeal immovable, the name of the owner at the time of the signing of such affidavit, a reference to the instrument of record, and an acknowledgment that the affiant is testifying under penalty of perjury.

Proposed law provides that the affidavit constitutes prima facie evidence that a request for the written statement of the transfer fee payable in order to obtain a release of the fee imposed by the private transfer fee obligation was sent and the person listed on the notice of transfer fee failed to provide the written statement of the transfer fee payable within 30 days of the date of the notice was sent.

(Adds R.S. 9:3131-3136)