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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3338

05/21/2023 Authored by Freiberg, Xiong and Pursell
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to real property; providing for certain private transfer fees; amending
1.3 Minnesota Statutes 2022, section 513.73, subdivision 3.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2022, section 513.73, subdivision 3, is amended to read:

1.6 Subd. 3. Private transfer fee. "Private transfer fee" means a fee or charge required by
1.7 a private transfer fee obligation and payable upon the transfer of an interest in real property,
1.8 or payable for the right to make or accept the transfer, regardless of whether the fee or
1.9 charge is a fixed amount or is determined as a percentage of the value of the property, the
1.10 purchase price, or other consideration given for the transfer. The following are not private
1.11 transfer fees for purposes of this section:

1.12 (1) consideration payable by the grantee to the grantor for the interest in real property
1.13 being transferred, including any subsequent additional consideration for the property payable
1.14 by the grantee based upon any subsequent appreciation, development, or sale of the property,
1.15 provided that the additional consideration is payable on a onetime basis only, and the
1.16 obligation to make the payment does not bind successors in title to the property. For the
1.17 purposes of this clause, an interest in real property may include a separate mineral estate
1.18 and its appurtenant surface access rights;

1.19 (2) commission payable to a licensed real estate broker for the transfer of real property
1.20 pursuant to an agreement a declaration, covenant, or contractual agreement between the
1.21 broker and the grantor or the grantee, including any subsequent additional commission for
1.22 that transfer payable by the grantor or the grantee based upon any subsequent appreciation,

2.1 development, or sale of the property; so long as the declaration, covenant, or contractual
2.2 agreement does not:

2.3 (i) contain any term which cannot be performed within one year after the date of the
2.4 declaration, covenant, or contractual agreement; and

2.5 (ii) have one or more of the following characteristics:

2.6 (A) the declaration, covenant, or contractual agreement purports to run with the land or
2.7 to be binding on the future owners of an interest in the property;

2.8 (B) the declaration, covenant, or contractual agreement permits assignment of the right
2.9 to provide service without notice to and the consent of the fee owner of the property;

2.10 (C) the declaration, covenant, or contractual agreement purports to create a lien,
2.11 encumbrance, or other real property security interest; or

2.12 (D) the declaration, covenant, or contractual agreement purports to renew automatically
2.13 upon the expiration of the initial term;

2.14 (3) interest, charges, fees, or other amounts payable by a borrower to a lender pursuant
2.15 to a loan secured by a mortgage against real property, including but not limited to a fee
2.16 payable to the lender for consenting to an assumption of the loan or a transfer of the real
2.17 property subject to the mortgage, fees, or charges payable to the lender for estoppel letters
2.18 or certificates, and shared appreciation interest or profit participation or other consideration
2.19 and payable to the lender in connection with the loan;

2.20 (4) rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor
2.21 under a lease, including but not limited to a fee payable to the lessor for consenting to an
2.22 assignment, subletting, encumbrance, or transfer of the lease;

2.23 (5) consideration payable to the holder of an option to purchase an interest in real property
2.24 or the holder of a right of first refusal or first offer to purchase an interest in real property
2.25 for waiving, releasing, or not exercising the option or right upon the transfer of the property
2.26 to another person;

2.27 (6) consideration payable by a contract for deed vendee to the vendor pursuant to the
2.28 terms of a recorded contract for deed, including any subsequent additional consideration
2.29 for the property payable by the vendee based upon any subsequent appreciation, development,
2.30 or sale of the property;

2.31 (7) a tax, fee, charge, assessment, fine, or other amount payable to or imposed by a
2.32 governmental authority;

3.1 (8) a fee, charge, assessment, fine, or other amount payable to a homeowner's
3.2 condominium, cooperative, mobile home, or property owner's association pursuant to a
3.3 declaration or covenant or law applicable to the association, including but not limited to
3.4 fees or charges payable for estoppel letters or certificates issued by the association or its
3.5 authorized agent;

3.6 (9) a fee, a charge, an assessment, dues, a contribution, or other amount pertaining to
3.7 the purchase or transfer of a club membership relating to real property owned by the member,
3.8 including but not limited to any amount determined by reference to the value, purchase
3.9 price, or other consideration given for the transfer of the real property; and

3.10 (10) a mortgage from the purchaser of real property granted to the seller or to a licensed
3.11 real estate broker.