

**§ 39A-2. Definitions.**

As used in this Chapter:

- (1) "Transfer" means the sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property located in this State.
- (2) "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 such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. The following shall not be considered a "transfer fee" for the purposes of this Chapter:
  - 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 that, once paid, shall not bind successors in title to the property.
  - 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 transferor or transferee, including any subsequent additional commission for the transfer payable by the transferor or the transferee based upon any subsequent additional commission payable by the transferor 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 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 other consideration allowed by law 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 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 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 charged that is a typical real estate closing cost, including closing or escrow fees, settlement fees, attorney fees, or title insurance premiums and fees.
  - h. Any reasonable fee charged for the preparation of statements of unpaid assessments pursuant to G.S. 47F-3-102(13) or resale certificates or statements of unpaid assessments pursuant to G.S. 47C-3-102(12).

- i. Any reasonable fee payable by the original transferee to a unit owners' association as defined in G.S. 47C-1-103(3), or owners' association as defined in G.S. 47F-1-103(3), as long as no portion of the fee is required to be passed through to a third party designated or identifiable by description in the document or another document referenced therein.
  - j. Any fee payable as part of a conservation or preservation agreement as provided in G.S. 121-38(e).
- (3) "Transfer fee covenant" means a declaration or covenant purporting to affect real property that requires or purports to require the payment of a transfer fee to the declarant or other person specified in the declaration or covenant or to their successors or assigns, upon a subsequent transfer of an interest in the real property. (2010-32, s. 1.)