

382.796 Conspicuous notice of all fees and obligations to be included in real estate purchase contracts -- Civil remedies -- Buyer's waiver of rights void.

On and after April 11, 2012:

- (1) Any contract or other instrument used for the sale of real property which obligates the buyer to pay a fee to the seller upon the subsequent resale of the real property, 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 subsequent transfer, shall include a conspicuous provision:
 - (a) Disclosing the existence of the obligation;
 - (b) Describing the obligation; and
 - (c) Stating that private transfer fee obligations, as that term is defined in KRS 382.792, are prohibited under KRS 382.794;
- (2) A contract or other instrument for the sale of real property subject to the provisions of this section and found not to be in compliance shall be void and shall:
 - (a) Not be enforceable by the seller against the buyer;
 - (b) Not subject the buyer to any liability to the seller for any damages; and
 - (c) Require the seller to return all deposits made in connection with the sale of the real property;
- (3) If a private transfer fee obligation is not discovered until after title of the property has passed to the buyer, the buyer may recover any and all damages resulting from the failure to disclose the obligation, including but not limited to:
 - (a)
 1. The amount of any obligation paid by the buyer to the seller, including interest thereon; or
 2. The difference between the market value of the real property if it were not subject to a private transfer fee obligation and the market value of the real property as subject to a private transfer fee obligation; and
 - (b) Attorneys fees, expenses, and costs incurred by the buyer in seeking the remedies under this section; and
- (4) Any provision in a contract, covenant, or other instrument that purports to waive the rights of a buyer under this section shall be void.

Effective: April 11, 2012

History: Created 2012 Ky. Acts ch. 118, sec. 3, effective April 11, 2012.

Legislative Research Commission Note (4/11/2012). The internal numbering of subsection (3) of this statute has been modified by the Reviser of Statutes from the way it appeared in 2012 Ky. Acts ch. 118, sec. 3, under the authority of KRS 7.136(1). The words in the text were not changed.