

California Civil Code Section 1098

A "transfer fee" is any fee payment requirement imposed within a covenant, restriction, or condition contained in any deed, contract, security instrument, or other document affecting the transfer or sale of, or any interest in, real property that requires a fee be paid upon transfer of the real property. A transfer fee does not include any of the following:

- (a) Fees or taxes imposed by a governmental entity.
- (b) Fees pursuant to mechanics' liens.
- (c) Fees pursuant to court-ordered transfers, payments, or judgments.
- (d) Fees pursuant to property agreements in connection with a legal separation or dissolution of marriage.
- (e) Fees, charges, or payments in connection with the administration of estates or trusts pursuant to Division 7 (commencing with Section 7000), Division 8 (commencing with Section 13000), or Division 9 (commencing with Section 15000) of the Probate Code.
- (f) Fees, charges, or payments imposed by lenders or purchasers of loans, as these entities are described in subdivision (c) of Section 10232 of the Business and Professions Code.
- (g) Assessments, charges, penalties, or fees authorized by the Davis-Stirling Common Interest Development Act (Title 6 (commencing with Section 1350) of Part 4).
- (h) Fees, charges, or payments for failing to comply with, or for transferring the real property prior to satisfying, an obligation to construct residential improvements on the real property.
- (i) Any fee reflected in a document recorded against the property on or before December 31, 2007, that is separate from any covenants, conditions, and restrictions, and that substantially complies with subdivision (a) of Section 1098.5 by providing a prospective transferee notice of the following:

- (1) Payment of a transfer fee is required.
- (2) The amount or method of calculation of the fee.
- (3) The date or circumstances under which the transfer fee payment requirement expires, if any.
- (4) The entity to which the fee will be paid.
- (5) The general purposes for which the fee will be used.

California Civil Code Section 1098.5

(a) For transfer fees, as defined in Section 1098, imposed prior to January 1, 2008, the receiver of the fee, as a condition of payment of the fee on or after January 1, 2009, shall record, on or before December 31, 2008, against the real property in the office of the county recorder for the county in which the real property is located a separate document that meets all of the following requirements:

(1) The title of the document shall be "Payment of Transfer Fee Required" in at least 14-point boldface type.

(2) The document shall include all of the following information:

(A) The names of all current owners of the real property subject to the transfer fee, and the legal description and assessor's parcel number for the affected real property.

(B) The amount, if the fee is a flat amount, or the percentage of the sales price constituting the cost of the fee.

(C) If the real property is residential property, actual dollar-cost examples of the fee for a home priced at two hundred fifty thousand dollars (\$250,000), five hundred thousand dollars (\$500,000), and seven hundred fifty thousand dollars (\$750,000).

(D) The date or circumstances under which the transfer fee payment requirement expires, if any.

(E) The purpose for which the funds from the fee will be used.

(F) The entity to which funds from the fee will be paid and specific contact information regarding where the funds are to be sent.

(G) The signature of the authorized representative of the entity to which funds from the fee will be paid.

(b) When a transfer fee, as defined in Section 1098, is imposed

upon real property on or after January 1, 2008, the person or entity imposing the transfer fee, as a condition of payment of the fee, shall record in the office of the county recorder for the county in which the real property is located, concurrently with the instrument creating the transfer fee requirement, a separate document that meets

all of the following requirements:

(1) The title of the document shall be "Payment of Transfer Fee Required" in at least 14-point boldface type.

(2) The document shall include all of the following information:

(A) The names of all current owners of the real property subject to the transfer fee, and the legal description and assessor's parcel number for the affected real property.

(B) The amount, if the fee is a flat amount, or the percentage of the sales price constituting the cost of the fee.

(C) If the real property is residential property, actual dollar-cost examples of the fee for a home priced at two hundred fifty thousand dollars (\$250,000), five hundred thousand dollars (\$500,000), and seven hundred fifty thousand dollars (\$750,000).

(D) The date or circumstances under which the transfer fee payment requirement expires, if any.

(E) The purpose for which the funds from the fee will be used.

(F) The entity to which funds from the fee will be paid and specific contact information regarding where the funds are to be sent.

(G) The signature of the authorized representative of the entity to which funds from the fee will be paid.

(c) The recorder shall only be responsible for examining that the document required by subdivision (a) or (b) contains the information required by subparagraphs (A), (F), and (G) of paragraph (2) of subdivision (a) or (b). The recorder shall index the document under the names of the persons and entities identified in subparagraphs (A) and (F) of paragraph (2) of subdivision (a) or (b). The recorder shall not examine any other information contained in the document required by subdivision (a) or (b).