

SECOND REGULAR SESSION

HOUSE BILL NO. 2239

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEVENSON.

Read 1st time February 21, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

5206L.01I

AN ACT

To amend chapter 442, RSMo, by adding thereto one new section relating to transfer fee covenants for real property.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 442, RSMo, is amended by adding thereto one new section, to be
2 known as section 442.558, to read as follows:

442.558. 1. As used in this section, the following terms shall mean:

2 **(1) "Transfer", the sale, gift, conveyance, assignment, inheritance, or other transfer**
3 **of ownership interest in real property located in this state;**

4 **(2) "Transfer fee", a fee or charge payable upon the transfer of an interest in real**
5 **property, or payable for the right to make or accept such transfer, regardless of whether**
6 **the fee or charge is a fixed amount or is determined as a percentage of the value of the**
7 **property, the purchase price, or other consideration given for the transfer. Transfer fee**
8 **shall not include the following:**

9 **(a) Any consideration payable by the grantee to the grantor for the interest in real**
10 **property being transferred;**

11 **(b) Any commission payable to a licensed real estate broker for the transfer of real**
12 **property under an agreement between the broker and the grantor or the grantee;**

13 **(c) Any interest, charges, fees, or other amounts payable by a borrower to a lender**
14 **under a loan secured by a mortgage against real property, including but not limited to any**
15 **fee payable to the lender for consenting to an assumption of the loan or a transfer of the**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 real property subject to the mortgage, any fees or charges payable to the lender for
17 estoppel letters or certificates, and any other consideration allowed by law and payable to
18 the lender in connection with the loan;

19 (d) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to
20 a lessor under a lease, including but not limited to any fee payable to the lessor for
21 consenting to an assignment, subletting, encumbrance, or transfer of the lease;

22 (e) Any consideration payable to the holder of an option to purchase an interest in
23 real property or the holder of a right of first refusal or first offer to purchase an interest
24 in real property for waiving, releasing, or not exercising the option or right upon the
25 transfer of the property to another person;

26 (f) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed
27 by a governmental authority;

28 (3) "Transfer fee covenant", a declaration or covenant purporting to affect real
29 property which requires or purports to require the payment of a transfer fee to the
30 declarant or other person specified in the declaration or covenant or to their successors or
31 assigns upon a subsequent transfer of an interest in the real property.

32 2. A transfer fee covenant recorded in this state on or after September 1, 2008, shall
33 not run with the title to real property and is not binding on or enforceable at law or in
34 equity against any subsequent owner, purchaser, or mortgagee of any interest in real
35 property as an equitable servitude or otherwise. Any lien purporting to secure the
36 payment of a transfer fee under a transfer fee covenant recorded in this state on or after
37 September 1, 2008, is void and unenforceable.

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