

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2239**  
**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Judiciary April 3, 2008 with recommendation that House Committee Substitute for House Bill No. 2239 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

5206L.02C

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**AN ACT**

To repeal section 49.292, RSMo, and to enact in lieu thereof two new sections relating to real estate transfers.

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

Section A. Section 49.292, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 49.292 and 442.558, to read as follows:

49.292. 1. Notwithstanding any other law to the contrary, the county commission of any county may reject the transfer of title of real property to the county by donation or dedication if the commission determines that such rejection is in the public interest of the county.

2. No transfer of title of real property to the county commission or any other political subdivision by donation or dedication authorized to be recorded in the office of the recorder of deeds shall be valid unless it has been proved or acknowledged. The preparer of the document relating to subsection 1 of this section shall not submit a document to the recorder of deeds for recording unless the acceptance thereof of the grantee named in the document has been proved or acknowledged. **No water or sewer line easement shall be construed as a transfer of title of real property under this subsection.**

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

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

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.

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  
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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