

FIRST REGULAR SESSION

HOUSE BILL NO. 1062

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FISHEL.

0814H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 59.310, 59.313, and 442.403, RSMo, and to enact in lieu thereof three new sections relating to restrictive covenants.

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

Section A. Sections 59.310, 59.313, and 442.403, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as section 59.310, 59.313, and 442.403, to read as follows:

59.310. 1. The county recorder of deeds may refuse any document presented for recording that does not meet the following requirements:

(1) The document shall consist of one or more individual pages printed only on one side and not permanently bound nor in a continuous form. The document shall not have any attachment stapled or otherwise affixed to any page except as necessary to comply with statutory requirements, provided that a document may be stapled together for presentation for recording; a label that is firmly attached with a bar code or return address may be accepted for recording;

(2) The size of print or type shall not be smaller than eight-point type and shall be in black or dark ink. Should any document presented for recording contain type smaller than eight-point type, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

(3) The document must be of sufficient legibility to produce a clear and legible reproduction thereof. Should any document not be of sufficient legibility to produce a clear and legible reproduction, such document shall be accompanied by an exact typewritten copy not smaller than eight-point type to be recorded contemporaneously as additional pages of the document;

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.

17 (4) The document shall be on white paper or light-colored of not less than twenty-pound
18 weight without watermarks or other visible inclusions, except for plats and surveys, which may
19 be on materials such as Mylar or velum. All text within the document shall be of sufficient color
20 and clarity to ensure that when the text is reproduced from record, it shall be readable;

21 (5) All signatures on a document shall be in black or dark ink, such that such signatures
22 shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it
23 shall be readable, and shall have the corresponding name typed, printed or stamped underneath
24 said signature. The typing or printing of any name or the applying of an embossed or inked
25 stamp shall not cover or otherwise materially interfere with any part of the document except
26 where provided for by law;

27 (6) The documents shall have a top margin of at least three inches of vertical space from
28 left to right, to be reserved for the recorder of deeds' certification and use. All other margins on
29 the document shall be a minimum of three-fourths of one inch on all sides. Nonessential
30 information such as form numbers, page numbers or customer notations may be placed in the
31 margin. A document may be recorded if a minor portion of a seal or incidental writing extends
32 beyond the margins. The recorder of deeds will not incur any liability for not showing any seal
33 or information that extends beyond the margins of the permanent archival record.

34 2. Every document containing any of the items listed in this subsection that is presented
35 for recording, except plats and surveys, shall have such information on the first page below the
36 three-inch horizontal margin:

37 (1) The title of the document;

38 (2) The date of the document;

39 (3) All grantors' names;

40 (4) All grantees' names;

41 (5) Any statutory addresses;

42 (6) The legal description of the property; and

43 (7) Reference book and pages for statutory requirements, if applicable.

44

45 If there is not sufficient room on the first page for all of the information required by this
46 subsection, the page reference within the document where the information is set out shall be
47 stated on the first page.

48 3. From January 1, 2002, documents which do not meet the requirements set forth in this
49 section may be recorded for an additional fee of twenty-five dollars, which shall be deposited in
50 the recorders' fund established pursuant to subsection 1 of section 59.319.

51 4. Documents which are exempt from format requirements and which the recorder of
52 deeds may record include the following:

- 53 (1) Documents which were signed prior to January 1, 2002;
- 54 (2) Military separation papers;
- 55 (3) Documents executed outside the United States;
- 56 (4) Certified copies of documents, including birth and death certificates;
- 57 (5) Any document where one of the original parties is deceased or otherwise
- 58 incapacitated; ~~and~~
- 59 (6) Judgments or other documents formatted to meet court requirements; **and**
- 60 **(7) Any certificate of release of prohibited covenants.**
- 61 5. Any document rejected by a recorder of deeds shall be returned to the preparer or
- 62 presenter accompanied by an explanation of the reason it could not be recorded.
- 63 6. Recorders of deeds shall be allowed fees for their services as follows:
- 64 (1) For recording every deed or instrument: five dollars for the first page and three
- 65 dollars for each page thereafter except for plats and surveys;
- 66 (2) For copying or reproducing any recorded instrument, except surveys and plats: a fee
- 67 not to exceed two dollars for the first page and one dollar for each page thereafter;
- 68 (3) For every certificate and seal, except when recording an instrument: one dollar;
- 69 (4) For recording a plat or survey of a subdivision, outlets or condominiums: twenty-five
- 70 dollars for each sheet of drawings or calculations based on a size not to exceed twenty-four
- 71 inches in width by eighteen inches in height. For recording a survey of one or more tracts: five
- 72 dollars for each sheet of drawings or calculations based on a size not to exceed twenty-four
- 73 inches in width by eighteen inches in height. Any plat or survey larger than eighteen inches by
- 74 twenty-four inches shall be counted as an additional sheet for each additional eighteen inches by
- 75 twenty-four inches, or fraction thereof, plus five dollars per page of other material;
- 76 (5) For copying a plat or survey of one or more tracts: a fee not to exceed five dollars for
- 77 each sheet of drawings and calculations not larger than twenty-four inches in width and eighteen
- 78 inches in height and one dollar for each page of other material;
- 79 (6) For a document which releases or assigns more than one item: five dollars for each
- 80 item beyond one released or assigned in addition to any other charges which may apply;
- 81 **however, for recording a document that releases prohibited covenants: no fee;**
- 82 (7) For every certified copy of a marriage license or application for a marriage license:
- 83 two dollars;
- 84 (8) For duplicate copies of the records in a medium other than paper, the recorder of
- 85 deeds shall set a reasonable fee not to exceed the costs associated with document search and
- 86 duplication; and
- 87 (9) For all other use of equipment, personnel services and office facilities, the recorder
- 88 of deeds may set a reasonable fee.

59.313. 1. The recorder of deeds in a city not within a county may refuse any document
2 presented for recording that does not meet the following requirements:

3 (1) The document shall consist of one or more individual pages not permanently bound
4 nor in a continuous form. The document shall not have any attachment stapled or otherwise
5 affixed to any page except as necessary to comply with statutory requirements, provided that a
6 document may be stapled together for presentation for recording; a label that is firmly attached
7 with a bar code or return address may be accepted for recording;

8 (2) The size of print or type shall not be smaller than eight-point type and shall be in
9 black or dark ink. Should any document presented for recording contain type smaller than
10 eight-point type, such document shall be accompanied by an exact typewritten copy not smaller
11 than eight-point type to be recorded contemporaneously as additional pages of the document;

12 (3) The document must be of sufficient legibility to produce a clear and legible
13 reproduction thereof. Should any document not be of sufficient legibility to produce a clear and
14 legible reproduction, such document shall be accompanied by an exact typewritten copy not
15 smaller than eight-point type to be recorded contemporaneously as additional pages of the
16 document;

17 (4) The document shall be on white or light-colored paper of not less than twenty-pound
18 weight without watermarks or other visible inclusions, except for plats and surveys, which may
19 be on materials such as Mylar or velum. All text within the document shall be of sufficient color
20 and clarity to ensure that when the text is reproduced from record, it shall be readable;

21 (5) All signatures on a document shall be in black or dark ink, such that such signatures
22 shall be of sufficient color and clarity to ensure that when the text is reproduced from record, it
23 shall be readable, and shall have the corresponding name typed, printed or stamped underneath
24 said signature. The typing or printing of any name or the applying of an embossed or inked
25 stamp shall not cover or otherwise materially interfere with any part of the document, except
26 where provided for by law;

27 (6) Every document, except plats and surveys, shall have a top margin of at least three
28 inches of vertical space from left to right, to be reserved for the recorder of deeds' certification
29 and use. All other margins on the document shall be a minimum of three-fourths of one inch on
30 all sides. Nonessential information such as form numbers, page numbers or customer notations
31 may be placed in the margin. A document may be recorded if a minor portion of a seal or
32 incidental writing extends beyond the margins. The recorder of deeds will not incur any liability
33 for not showing any seal or information that extends beyond the margins of the permanent
34 archival record.

35 2. Every document containing any of the items listed in this subsection that is presented
36 for recording, except plats and surveys, shall have such information on the first page below the
37 three-inch horizontal line:

- 38 (1) The title of the document;
- 39 (2) The date of the document;
- 40 (3) All grantors' names;
- 41 (4) All grantees' names;
- 42 (5) Any statutory addresses;
- 43 (6) The legal description or descriptions of the property; and
- 44 (7) Reference book and page for statutory requirements, if applicable.

45

46 If there is not sufficient room on the first page for all the required information, the page reference
47 within the document where the information is set out shall be placed on the first page.

48 3. From January 1, 2002, documents which do not meet the requirements set forth in this
49 section may be recorded for an additional fee of twenty-five dollars, which shall be deposited in
50 the recorders' fund established pursuant to subsection 1 of section 59.319.

51 4. Documents which are exempt from format requirements and which the recorder of
52 deeds may record include the following:

- 53 (1) Documents which were signed prior to January 1, 2002;
- 54 (2) Military separation papers;
- 55 (3) Documents executed outside the United States;
- 56 (4) Certified copies of documents, including birth and death certificates;
- 57 (5) Any document where one of the original parties is deceased or otherwise
58 incapacitated; ~~and~~
- 59 (6) Judgments or other documents formatted to meet court requirements; **and**
- 60 (7) **Any certificate of release of prohibited covenants.**

61 5. Any document rejected by a recorder of deeds shall be returned to the preparer or
62 presenter accompanied by an explanation of the reason it could not be recorded.

63 6. Recorders of deeds shall be allowed fees for their services as follows:

- 64 (1) For recording every deed or instrument: ten dollars for the first page and five dollars
65 for each page thereafter;
- 66 (2) For copying or reproducing any recorded instrument, except surveys and plats: three
67 dollars for the first page and two dollars for each page thereafter;
- 68 (3) For every certificate and seal, except when recording an instrument: two dollars;

69 (4) For recording a plat or survey of a subdivision, outlots or condominiums: forty-four
70 dollars for each sheet of drawings and calculations based on a size of not to exceed twenty-four
71 inches in width by eighteen inches in height, plus ten dollars for each page of other materials;

72 (5) For recording a survey of one tract of land, in the form of one sheet not to exceed
73 twenty-four inches in width by eighteen inches in height: eight dollars;

74 (6) For copying a plat or survey: eight dollars for each page;

75 (7) For every certified copy of a marriage license or application for a marriage license:
76 five dollars;

77 (8) For releasing on the margin: eight dollars for each item released;

78 (9) For a document which releases or assigns more than one item: seven dollars and fifty
79 cents for each item beyond one released or assigned in addition to any other charges which may
80 apply; **however, for recording a document that releases a prohibited covenant: no fee;** and

81 (10) For duplicate reels of microfilm: thirty dollars each.

82

83 For all other use of equipment, personnel services and office space the recorder of deeds shall
84 set attendant fees.

442.403. 1. Any restrictive covenant recitals on property, real or personal, found in any
2 deeds, plats, restrictions, covenants, or other conveyances of any type or nature, filed for record
3 at any time in the office of the recorder of deeds in any county~~[, which relate]~~ **that relates** to the
4 race, color, religion, or national origin of any person~~[-]~~ shall be void and unenforceable~~[-]~~ and
5 shall be ignored, as if the same never existed.

6 2. Any person or legal entity with an interest in real property or any agent of such person
7 or entity, shall not incur any liability by reason of the mere existence of a restrictive covenant
8 described in subsection 1 of this section in any document filed for record before May 3, 1948,
9 in any recorder of deeds' office.

10 **3. No deed recorded on or after August 28, 2021, shall contain a reference to the**
11 **specific portion of a restrictive covenant purporting to restrict the ownership or use of the**
12 **property as prohibited under subsection 1 of this section. A recorder of deeds may refuse**
13 **to accept any deed submitted for recording that references the specific portion of any such**
14 **restrictive covenant. The attorney who prepares or submits a deed for recording has the**
15 **responsibility of ensuring that the specific portion of such a restrictive covenant is not**
16 **specifically referenced in the deed prior to such deed being submitted for recording. A**
17 **deed may include a general provision that states that such deed is subject to any and all**
18 **covenants and restrictions of record; however, such provision shall not apply to the specific**
19 **portion of a restrictive covenant purporting to restrict the ownership or use of the property**
20 **as prohibited under subsection 1 of this section. Any deed that is recorded after August**

21 27, 2021, that mistakenly contains such a restrictive covenant shall nevertheless constitute
22 a valid transfer of real property.

23 4. Any restrictive covenant prohibited under subsection 1 of this section may be
24 released by the owner of real property subject to such covenant by recording a certificate
25 of release of prohibited covenants. The real property owner may record a certificate either
26 prior to recording of a deed conveying real property to a purchaser or when such real
27 property owner discovers that such prohibited covenant exists and chooses to affirmatively
28 release the same. A certificate may be prepared without assistance of an attorney but shall
29 conform substantially to the following certificate of release of prohibited covenants form:

30

31

Certificate of Release of Prohibited Covenants

32

33 Place of record: _____

34 Date of instrument containing prohibited covenant(s): _____

35 Instrument type: _____

36 Deed book _____ page ____ or plat book _____ page _____

37 Name(s) of grantor(s): _____

38 Name(s) of current owner(s): _____

39 Real property description: _____

40 Brief description of prohibited covenant: _____

41

42 The covenant contained in the above-mentioned instrument is released from
43 the above-described real property to the extent that it contains terms
44 purporting to restrict the ownership or use of the property as prohibited by
45 442.403, RSMo.

46

47 The undersigned (is/are) the legal owner(s) of the property described herein.

48

49 Given under my/our hand(s) this _____ day of _____, 20__.

50

51

52

53

(Current owners)

54

55 (County/city) of _____.

56

State of Missouri

57 **Subscribed and sworn to before me this _____ day of _____, 20__.**

58

59

60

Notary public

My commission expires: _____

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