HCS SS SCS SB 973 -- REAL ESTATE TRANSACTIONS

SPONSOR: Trent

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Commerce by a vote of 6 to 3. Voted "Do Pass" by the Standing Committee on Rules-Administrative by a vote of 7 to 1.

The following is a summary of the House Committee Substitute for SB 973.

THE USE OF PROPERTY FOR EDUCATIONAL PURPOSES BY CHARTER PUBLIC SCHOOLS (Section 160.421)

The bill provides that a political subdivision shall not adopt or enforce an ordinance, policy, or any deed or property-use restriction that prohibits property sold, leased, or transferred by the political subdivision from being used by a charter public school for any lawful educational purpose. Any deed restriction or property-use restriction that allows only for one or more specified uses or purposes that do not include any educational use or purpose by a charter public school is prohibited. Any deed or property-use restriction in effect on the effective date of the bill that prohibits or does not permit property previously used for any educational purpose from being used for any future educational purpose by a charter public school is void. Any ordinance, policy, deed, use restriction, or contract made in violation of this provision is void.

RIGHT OR FIRST REFUSAL (Section 162.092)

If a school district offers to purchase or lease an unused facility to a party, other than a public entity, the contract must include a provision that makes the purchase or lease subject to the right of first refusal by a public entity.

If the offer to purchase or lease is accepted, the school district selling or leasing the unused facility must provide a public notice on its website, as described in the bill.

If two or more public entities notify the offering school district indicating an interest in the unused facility to lease or purchase, the offering school district shall make the final selection of the purchaser or lessee.

In right of first refusal negotiations and lease requirements are described in the bill.

The public entity has six months after the date of making a written offer to complete the purchase or lease of the unused facility for a price negotiated with the school district.

During the term of lease, the public entity shall be responsible for direct expenses related to the facility or any part of the facility leased.

If a public entity plans to sell an unused facility that it has purchased, it shall first offer the facility to the school district from which it was purchased. The offer will be governed by these provisions.

Under this bill, not less than 14 calendar days before entering into a contract that transfers an interest in residential real property, a wholesaler, as defined in the bill, acting as a grantee or a wholesaler's representative, shall provide to the property owner a written disclosure. Requirements for the disclosure are described in the bill.

A wholesaler acting as a grantee shall not enter into a contract that transfers an interest in residential property until both the wholesaler and the property owner sign and date the disclosure.

If the wholesaler acting as the grantee fails to make the disclosure before entering into the contract that transfers interest in the property, the owner of the property may cancel the contract at any time before the close of the escrow without penalty and the escrow agent shall disburse any earnest money paid by the wholesaler to the owner within 30 days after the cancellation.

Provisions of the bill shall not be modified or waived by any agreement. Any portion of an agreement executed, modified, or extended after the effective date of the bill that modifies or waives provisions of the bill will be null and void.

Any violation of the bill shall be considered an unlawful practice under the Missouri Merchandising Practices Act. A party that enters into an agreement without receiving the disclosure under the bill may bring a private action against a wholesaler.

The Attorney General will have the authority to enforce the provisions of the bill. For any violations, the Attorney General

may commence a civil action. If the court finds that a violation occurred, the court may grant relief as described in the bill.

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SALE LEASEBACKS (Section 442.920)

This bill establishes the "Missouri Residential Sale Leaseback Protection Act", which regulates sale leasebacks. A "sale leaseback" is defined as a transaction or series of transactions in which a seller sells residential real estate that is or was the seller's residence to another party and, as a condition of the sale, or as part of the same or a related transaction, enters into a lease or rental agreement to remain in or re-occupy the property. In any sale leaseback transaction, a buyer is required to provide the seller with certain disclosures, specified in the bill, alerting the seller of the nature of the transaction and advising them of certain actions they may wish to take. The disclosure must be provided to the seller not less than 14 calendar days prior to the execution of any sale leaseback agreement, and the disclosure must signed by both the seller and the buyer concurrently with the execution of the sale leaseback agreement. A copy of the signed disclosure must be provided to the seller within five days of the execution of the sale leaseback agreement. There shall be no delivery, recording, or other transfer of title from seller to buyer until 30 days after

the execution of any sale leaseback agreement. Violation of this act is subject to a civil penalty not to exceed $10,000 per violation. The Attorney General may bring an action to enforce the provisions of the bill. Any seller harmed by a violation of the bill may bring a civil action, as specified in the bill.

These provisions may not be waived or modified by agreement of any party.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the Senate perfected version of the bill.

PROPONENTS: Supporters say that this bill is a simple consumer protection bill when it comes to wholesaling and it protects everyone involved in a wholesaling transaction.

Testifying in person for the bill were Senator Trent; Missouri Association of Realtors; and Arnie C. Dienoff.

OPPONENTS: Those who oppose the bill say that this a good bill and it will help to protect everyone involved in a wholesaling transaction but brought up concerns regarding the 14 day waiting period after the disclosure is made to the owner of the property.

Testifying in person against the bill was Christopher Wilkerson.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.