

SECOND REGULAR SESSION

SENATE BILL NO. 1174

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODMAN.

Read 1st time February 25, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5292S.011

AN ACT

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

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 known as section 442.165, to read as follows:

442.165. 1. As used in this section, the following words and phrases shall mean:

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

(2) "Transfer fee", a fee or charge payable upon the transfer of an interest in real property, or payable for the right to make or accept such transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. The following shall not be considered transfer fees for purposes of this section:

(a) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development, or sale of the property;

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

(c) Any interest, charges, fees, or other amounts payable by a

22 borrower to a lender pursuant to a loan secured by a mortgage against
23 real property, including but not limited to any fee payable to the lender
24 for consenting to an assumption of the loan or a transfer of the real
25 property subject to the mortgage, any fees or charges payable to the
26 lender for estoppel letters or certificates, and any other consideration
27 allowed by law and payable to the lender in connection with the loan;

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

32 (e) Any consideration payable to the holder of an option to
33 purchase an interest in real property or the holder of a right of first
34 refusal or first offer to purchase an interest in real property for
35 waiving, releasing, or not exercising the option or right upon the
36 transfer of the property to another person;

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

39 (g) Any tax, fee, charge, assessment, fine, or other amount
40 payable to a homeowners', condominium, cooperative, mobile home, or
41 property owners' association pursuant to a declaration or covenant or
42 law applicable to such association;

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

48 2. A transfer fee covenant recorded in this state on or after
49 September 1, 2008, shall not run with the title to real property and is
50 not binding or enforceable at law or in equity against any subsequent
51 owner, purchaser, or mortgagee of any interest in real property as an
52 equitable servitude or otherwise.

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