

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 973
103RD GENERAL ASSEMBLY

4981H.05C

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapters 160, 162, 407, and 442, RSMo, by adding thereto five new sections relating to real estate transactions, with penalty provisions.

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

Section A. Chapters 160, 162, 407, and 442, RSMo, are amended by adding thereto
2 five new sections, to be known as sections 160.421, 162.092, 407.3600, 442.920, and 1, to
3 read as follows:

**160.421. 1. For purposes of this section, "political subdivision" shall include, but
2 not be limited to, municipalities, counties, and school districts.**

**3 2. A political subdivision shall not adopt, enforce, impose, or administer an
4 ordinance, local policy, or local resolution that prohibits property sold, leased, or
5 transferred by the political subdivision from being used by a charter public school for
6 any lawful educational purpose.**

**7 3. A political subdivision shall not impose, enforce, or apply any deed restriction,
8 property-use restriction, or other such restriction that expressly, or by its operation,
9 prohibits property sold, leased, or transferred by the political subdivision from being
10 used by a charter public school for any lawful educational purpose. Any deed
11 restriction, affirmative-use deed restriction, property-use restriction, or other such
12 restriction that affirmatively allows only for one or more specified uses or purposes that
13 do not include any educational use or purpose by a charter public school is prohibited
14 under this section. Any deed restriction, affirmative-use deed restriction, property-use
15 restriction, or other such restriction in effect on the effective date of this section that**

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 **prohibits or does not permit property previously used for any educational purpose from**
17 **being used for any future educational purpose by a charter public school is void.**

18 **4. Any ordinance, policy, regulation, deed, use restriction, or contract made in**
19 **violation of this section shall be void from its inception.**

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

2 **(1) "Public entity", the state of Missouri, any political subdivision of the state**
3 **including, but not limited to, all boards, commissions, agencies, institutions, authorities,**
4 **and bodies politic and corporate of the state created by or in accordance with state law**
5 **or regulations, or any institution supported in whole or in part by public funds;**

6 **(2) "Unused facility", a school building or facility owned by a school district that**
7 **is not used for academic purposes, extracurricular activities, administrative school**
8 **functions, or sports and for which the school district has no school-board-approved**
9 **written plan for future use.**

10 **2. If a school district extends an offer to purchase or lease an unused facility to a**
11 **party, other than a public entity, the contract shall include a provision that makes the**
12 **purchase or lease subject to the right of first refusal by a public entity.**

13 **3. If the offer to purchase or lease is accepted, the school district selling or**
14 **leasing the unused facility shall provide a public notice on its website stating:**

15 **(1) The unused facility is available for lease or purchase;**

16 **(2) The square footage of the unused facility;**

17 **(3) The contact information for the school district representative in charge of the**
18 **lease or sale; and**

19 **(4) The expiration date of the right of first refusal, which shall be sixty days after**
20 **the date of notification.**

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

24 **5. In right of first refusal negotiations with a public entity, it shall be the option**
25 **of the offering school district whether to sell or lease the property under consideration,**
26 **at fair market value or less, for a term to be agreed upon by the parties. A lease shall**
27 **include ingress to and egress from the facility, and where a part of a facility is leased, the**
28 **right to access and use the common area shared by all tenants and users of the facility.**
29 **If a public entity leases the entire facility, the public entity may incur debt to make**
30 **improvements to the facility, and the school district shall subordinate its interest in the**
31 **lease to such debt.**

32 **6. The public entity shall have six months after the date of making a written**
33 **offer to complete the purchase or lease of the unused facility for a price negotiated with**
34 **the school district.**

35 **7. During the term of a lease, the public entity shall be responsible for direct**
36 **expenses related to the facility or any part of the facility leased, including utilities,**
37 **insurance, maintenance, property taxes, and repairs.**

38 **8. If a public entity plans to sell an unused facility that it has purchased, it shall**
39 **first offer the facility to the school district from which it was purchased. Such offer shall**
40 **be governed by the procedures set forth in this section.**

407.3600. 1. For purposes of this section, the following terms mean:

2 **(1) "Residential real property", real property that is improved by a building or**
3 **other structure that has one to four dwelling units;**

4 **(2) "Wholesaler", a person or entity that for a fee, commission, or other valuable**
5 **consideration, or with the intention, expectation, or upon the promise of receiving or**
6 **collecting a fee, commission, or other valuable consideration, enters into a purchase**
7 **contract for residential real property either:**

8 **(a) As the grantee, and assigns or novates the contract to another person or**
9 **entity; or**

10 **(b) As the grantor, and, without holding legal title to the real property, assigns or**
11 **novates the contract to another person or entity.**

12

13 **"Wholesaler" shall not include:**

14 **a. An individual who assigns or novates the contract to another individual who is**
15 **a relative within the third degree of consanguinity or affinity; or**

16 **b. A person or entity that assigns or novates the contract to a parent, affiliate,**
17 **subsidiary, or affiliated group under common control with the person or entity.**

18 **2. Not less than fourteen calendar days before entering into a contract that**
19 **transfers an interest in residential real property, a wholesaler acting as a grantee or a**
20 **wholesaler's representative, if applicable, shall provide to the record owner a written**
21 **disclosure statement, separate from the purchase contract or agreement, printed in**
22 **boldface type font size not less than twelve points, that contains the following disclosure:**

23 **"Missouri law requires a wholesaler acting as a grantee, before**
24 **entering into a contract or agreement that conveys an interest in**
25 **residential real property, to provide certain information to the record**
26 **owner in a conspicuous manner printed in boldface type font size not**
27 **less than twelve points. Failure by a wholesaler to present or**
28 **complete this form shall be considered an unlawful and unfair**

29 practice under the Missouri Merchandising Practices Act. Any
 30 person who enters into an agreement that conveys an interest in
 31 residential real property to a wholesaler acting as a grantee without
 32 receiving this disclosure has a cause of action against the wholesaler.
 33 A wholesaler acting as a grantee is prohibited from entering into a
 34 binding contract to acquire an interest in residential real property
 35 unless this statement is signed and dated by the record owner of the
 36 property.

37 The owner acknowledges that the person presenting this document is
 38 a wholesaler, as defined in section 407.3600 of the Revised Statutes of
 39 Missouri, and that the owner is advised to seek legal advice before
 40 entering into any agreement or contract with the wholesaler. A
 41 wholesaler is acting on the wholesaler's own behalf and does not
 42 represent the owner in this transaction. A wholesaler enters
 43 assignable contracts with owners and seeks to sell or assign the
 44 wholesaler's interest for a profit. The wholesaler may assign the
 45 wholesaler's interest in the purchase contract to a third party without
 46 the owner's consent before closing. The wholesaler may charge a fee
 47 to the third-party buyer separately for profit. The agreed purchase
 48 price between the owner and wholesaler may be below market value
 49 and is conveyed voluntarily.

50 The owner acknowledges disclosure of the information provided in
 51 this form by signing and dating below:

52 _____ (Property owner signature) ____ (date)

53 _____ (Wholesaler signature) ____ (date)."

54 3. A wholesaler acting as the grantee shall not enter into a binding contract that
 55 transfers an interest in residential real property until both the wholesaler and the record
 56 owner of the property sign and date the disclosure statement required under subsection
 57 2 of this section.

58 4. If a wholesaler acting as the grantee fails to make the disclosures pursuant to
 59 subsection 2 of this section before entering into a binding contract that transfers an
 60 interest in residential real property, the record owner of the residential real property
 61 may cancel the contract at any time prior to the close of escrow without penalty and the
 62 escrow or closing agent shall disburse any earnest money paid by the wholesaler to the
 63 record owner within thirty days after such cancellation.

64 **5. Provisions of this section shall not be modified or waived by any oral or**
65 **written agreement. Any portion of an agreement that is executed, modified, or extended**
66 **after the effective date of this section that modifies or waives any provision of this**
67 **section shall be null and void.**

68 **6. Any violation of this section shall be considered an unlawful practice under**
69 **the Missouri merchandising practices act under this chapter. A party that enters into an**
70 **agreement without receiving the disclosures required under subsection 2 of this section**
71 **may bring a private action against a wholesaler.**

72 **7. The attorney general shall have the authority to enforce the provisions of this**
73 **section. If the attorney general finds that a violation occurred, the attorney general may**
74 **commence a civil action in a court of competent jurisdiction. If the court finds that a**
75 **violation occurred, the court may grant damages, injunctive relief, attorney fees, and**
76 **any such other relief the court finds appropriate.**

442.920. 1. This section shall be known and may be cited as the "Missouri
2 **Residential Sale Leaseback Protection Act".**

3 **2. For purposes of this section, the following terms mean:**

4 **(1) "Buyer", any person or entity that acquires an ownership interest in**
5 **residential real estate in a sale leaseback transaction;**

6 **(2) "Residential real estate", real property that is improved by a building or**
7 **other structure that has one to four dwelling units;**

8 **(3) "Sale leaseback", a transaction or series of transactions in which a seller sells**
9 **residential real estate that is or was the seller's residence to another party and, as a**
10 **condition of the sale, or as part of the same or a related transaction, enters into a lease**
11 **or rental agreement to remain in or re-occupy the property;**

12 **(4) "Seller", any natural person who transfers an ownership interest in**
13 **residential real estate in a sale leaseback transaction.**

14 **3. (1) In any sale leaseback transaction, the buyer shall provide the seller with**
15 **the following disclosure on a single page in a clear and conspicuous manner, printed in**
16 **boldface type:**

17 **If you sign a sale leaseback agreement, you are entering into a**
18 **contract to sell your home. This means you will no longer own your**
19 **home.**

20 **You may be subject to eviction if you do not follow the lease terms.**

21 **You may lose the right to buy back your home.**

22 **This may affect your credit, taxes, and legal rights.**

23 **You are encouraged to speak with:**

24 **(1) An attorney;**

25 **(2) A real estate agent;**

26 **(3) A housing counselor;**

27 **(4) A tax advisor; and**

28 **(5) A real estate appraiser.**

29 **No sale leaseback can be closed for at least thirty (30) days after**
30 **signing an agreement.**

31 **Do not sign unless you fully understand the terms.**

32 **(2) The disclosure required by subdivision (1) of this subsection shall be**
33 **provided to the seller not less than fourteen calendar days prior to execution of any sale**
34 **leaseback agreement, and the disclosures shall be signed by both the seller and the buyer**
35 **concurrently with the execution of the sale leaseback agreement.**

36 **(3) A copy of the signed disclosure required by subdivision (1) of this subsection**
37 **shall be provided to the seller within five days of the execution of the sale leaseback**
38 **agreement.**

39 **4. There shall be no delivery, recording, or other transfer of title from seller to**
40 **buyer until thirty days after the execution of any sale leaseback agreement.**

41 **5. (1) Any violation of the provisions of this section shall be subject to a civil**
42 **penalty not to exceed ten thousand dollars per violation.**

43 **(2) The attorney general may bring an action to enforce this section, including**
44 **actions for injunctive relief, civil penalties, and restitution.**

45 **(3) Any seller harmed by a violation of this section may bring a civil action to**
46 **recover:**

47 **(a) Actual damages;**

48 **(b) Statutory damages of ten thousand dollars, which shall be in addition to any**
49 **actual damages proven;**

50 **(c) Attorneys' fees and costs; and**

51 **(d) Equitable or injunctive relief.**

52 **6. No provision of this section shall be modified or waived by any agreement.**
53 **Any portion of an agreement that is executed, modified, or extended after the effective**
54 **date of this section that modifies or waives a duty or remedy under this section is void ab**
55 **initio and unenforceable.**

Section 1. In the event that any section, provision, clause, phrase, or word of this
2 **act or the application thereof is declared invalid under the Constitution of the United**
3 **States or the Constitution of the State of Missouri, it is the intent of the general assembly**
4 **that the remaining sections of this act remain in force and effect as far as they are**
5 **capable of being carried into execution as intended by the general assembly. The**

6 **general assembly hereby declares that it would have passed each section, provision,**
7 **clause, phrase, or word thereof, irrespective of the fact that any one or more sections,**
8 **provisions, clauses, phrases, or words of this act or the application of this act would be**
9 **declared unenforceable, unconstitutional, or invalid.**

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