

As Passed by the House

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Sub. H. B. No. 292

Representatives Letson, Oelslager

**Cosponsors: Representatives Yuko, Phillips, Ujvagi, Harwood, Domenick,
Stebelton, Chandler, Luckie, Foley, Batchelder, Blessing, Boose, Boyd,
Brown, Bulp, Carney, Combs, DeBose, Evans, Garland, Garrison, Hackett,
Harris, Huffman, Maag, Mallory, Mecklenborg, Murray, Pillich, Sayre,
Snitchler, Stewart, Wagner, Winburn**

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A B I L L

To amend sections 5307.11, 5307.12, 5307.13, 5307.14, 1
and 5307.16 and to enact section 5301.057 of the 2
Revised Code to prohibit transfer fee covenants in 3
certain real estate transactions and to enable a 4
court of common pleas to order a licensed 5
auctioneer to conduct a sale of real property 6
pursuant to a writ of partition. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5307.11, 5307.12, 5307.13, 5307.14, 8
and 5307.16 be amended and section 5301.057 of the Revised Code be 9
enacted to read as follows: 10

Sec. 5301.057. (A) As used in this section: 11

(1) "Environmental covenant" means a servitude that imposes 12
activity and use limitations on real property and meets the 13
requirements of section 5301.82 of the Revised Code. 14

(2) "Transfer" means the sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property located in this state. 15
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(3) "Transfer fee" means a fee or charge required by a transfer fee covenant and payable upon the transfer of an interest in real property, or payable for the right to make or accept such a 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 are not transfer fees for purposes of this section: 18
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(a) Any consideration payable by the grantee to the grantor for the interest in real property being transferred. For the purposes of division (A)(3)(a) of this section, an interest in real property includes a separate mineral estate and its appurtenant surface access rights. 26
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(b) Any commission payable to a licensed real estate broker or salesperson for the transfer of real property pursuant to an agreement between the broker or salesperson and the grantor or the grantee; 31
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(c) Any interest, charges, fees, or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property; 35
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(d) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease; 38
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(e) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the property to another person; 40
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(f) Any tax, fee, charge, assessment, fine, or other amount 45

payable to or imposed by a governmental authority; 46

(g) Any fee, charge, assessment, fine, or other amount 47
payable to a homeowners, condominium, cooperative, mobile home, or 48
property owners association pursuant to a declaration or covenant 49
or law applicable to the association; 50

(h) Any payment required pursuant to an environmental 51
covenant. 52

(4) "Transfer fee covenant" means a declaration or covenant 53
recorded against the title to real property that requires or 54
purports to require the payment of a transfer fee to the declarant 55
or other person specified in the declaration or covenant or to 56
their successors or assigns upon a subsequent transfer of an 57
interest in the real property. 58

(B) A transfer fee covenant recorded in this state on or 59
after the effective date of this section does not run with the 60
title to real property and is not binding on or enforceable 61
against any subsequent owner, purchaser, or mortgagee of any 62
interest in real property as an equitable servitude or otherwise. 63

(C) Any lien purporting to secure the payment of a transfer 64
fee under a transfer fee covenant that is recorded in this state 65
on or after the effective date of this section is void. 66

Sec. 5307.11. If no ~~election~~ party elects to take the estate 67
is made, at the ~~instance~~ insistence of a party, the court of 68
common pleas may order a sale of the estate at public auction, by 69
the ~~one of the following:~~ 70

(A) The sheriff who executed the writ of partition, or his 71
the sheriff's successor in office; 72

(B) An auctioneer who is licensed under Chapter 4707. of the 73
Revised Code and who is qualified under section 4707.021 of the 74
Revised Code to conduct an auction of real property. 75

Sec. 5307.12. (A) A sale of an estate under section 5307.11 76
of the Revised Code shall be made ~~at~~ as follows: 77

(1) If the sale is made by a sheriff, the sale shall be made 78
at the door of the courthouse, unless for good cause the court of 79
common pleas directs it to be made on the premises. The sale shall 80
be conducted as upon execution, except that it is unnecessary to 81
appraise the estate; ~~but it.~~ 82

(2) If the sale is made by a licensed auctioneer, the sale 83
shall be made pursuant to Chapter 4707. of the Revised Code. 84

(B) No property shall ~~not~~ be sold for less than two thirds of 85
the value returned by the commissioner or commissioners. ~~Unless by~~ 86
~~special order, on good cause shown, the court directs the entire~~ 87
~~payment to be made in cash, the purchase money shall be payable~~ 88
~~one third on the day of sale, one third in one year after the~~ 89
~~sale, and one third in two years after the sale, with interest.~~ 90

Sec. 5307.13. On the ~~sheriff's~~ return of ~~his~~ the proceedings 91
to sell the estate, the court of common pleas shall examine them. 92
If a sale has been made, and the court approves it, the sheriff 93
shall execute and deliver a deed to the purchaser on receiving 94
payment of the consideration money, or taking sufficient security 95
~~therefor~~ for that payment, to the satisfaction of the court. 96

Sec. 5307.14. ~~The~~ (A) Subject to division (B) of this 97
section, the money or securities arising from a sale of, or an 98
election to take an estate, shall be distributed and paid, by 99
order of the court of common pleas, to the parties entitled 100
~~thereto~~ to the money or securities, in lieu of their respective 101
parts and proportions of the estate, according to their rights 102
therein in the estate. All 103

(B) When a sale is made by a licensed auctioneer, the 104

auctioneer shall receive compensation and reimbursement for 105
expenses as described in section 2335.021 of the Revised Code, 106
that the court shall apportion as costs to the parties as the 107
court finds reasonable and proper. 108

(C) All receipts of ~~such~~ money or securities by the sheriff 109
arising from a sale or election are in ~~his~~ the sheriff's official 110
capacity, and ~~his~~ the sureties on ~~his~~ the sheriff's official bond 111
are liable for any misapplication ~~thereof~~ of those receipts. 112

Sec. 5307.16. ~~When a conveyance of~~ If an officer or 113
auctioneer has not conveyed land sold, or elected to be taken in a 114
proceeding for partition, ~~is not made by the officer who made the~~ 115
~~sale,~~ the court of common pleas on being first satisfied that such 116
sale or election was regularly made, and that the purchase money 117
~~is~~ has been fully paid or secured, on motion, may order the 118
sheriff of the county, or officer performing the duties of 119
sheriff, to execute and deliver to the purchaser, or person 120
electing to take the property, a deed ~~therefor~~ for the property. 121

Section 2. That existing sections 5307.11, 5307.12, 5307.13, 122
5307.14, and 5307.16 of the Revised Code are hereby repealed. 123