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SB 193 Testimony Committee on Judiciary and Public Safety 6/4/2025

Thank you Chairman Wanggaard and committee members for hearing this bill today.

SB 193 addresses several areas in statute that deal with regulation of real estate transfers, termination of a decedent property interests, property wholesalers, and filing satisfactions of a judgement.

Transfer on death(TOD) is a way to pass real estate to a beneficiary without going through costly probate. Like a will, beneficiaries can be changed while the property owner is still alive. In 2024, the court of appeals handed down a decision on the *McGary v. Zambo* case which has caused some complications with the TOD process. The law now makes it possible to mistakenly unintentionally revoke a TOD. This causes litigation and misrepresents the spirit of common-sense estate planning for modest and midsized estates. The bill fixes this by requiring TOD revocations to express a specific intent to revoke which will prevent the inadvertent revocation of a TOD.

The next part of the bill seeks to address how obtaining evidence of the termination of a decedent's property interests. This bill simply changes the requirement to submit a copy of the most recent property tax bill to the register of deeds rather than the property tax bill for the year preceding the decedent's death.



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The bill also clarifies liability in regards to wholesaler contracts.

Wholesaling is assigning contractual rights under a contract to another. For example, an investor (wholesaler) enters an offer with the seller of real property. The wholesaler then finds a buyer interested in the seller's property, and the wholesaler assigns their contractual rights to that buyer. Profit is made by selling the contract for a price higher than the one agreed to with the seller.

Current law

- Wholesalers must provide a written disclosure relating to their wholesaler status at the time of entering the agreement with either party.
- Wholesalers must inform the buyer that while the buyer has an equitable interest, they do not own title to the property.
- Disclosure cannot be waived
- Right to rescind and get any deposits or earnest money back

If the party rescinds, the party holding the earnest money pursuant to the purchase agreement or assignment of purchase agreement needs to disburse the earnest money to the depositor. Our bill revises language in order to provide clear authority for the settlement agent/title company to disburse when a party exercises their statutory right to rescind.

Lastly, if a person has paid off or partially paid off a judgement, the evidence of the payoff will be made easier to distribute if multiple counties are involved.

Thank you for your time, I look forward to answering your questions.



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TO: Senate Committee on Judiciary and Public Safety

FROM: Rep. Scott Krug

RE: 2025 Senate Bill 193, revoking a transfer of real property on death, obtaining evidence of the termination of a decedent's property interests, disbursing deposits after rescission of real property wholesaler contracts, and filing satisfactions of judgment.

DATE: June 4, 2025

Chairman Wanggaard and members of the Senate Committee on Judiciary and Public Safety, thank you for the opportunity to testify on Senate Bill 193.

Senator Jagler and I were asked to examine potential legislation addressing challenges that have emerged through recent litigation in property transfer law. Through careful review, we identified several technical fixes that can correct unnecessary complications in property transfers while also providing needed clarity regarding liability in wholesaler contracts.

A key improvement in this bill clarifies the process for revoking TOD designations. Under existing law, uncertainty exists about whether various types of subsequent property transfers effectively revoke prior TOD designations. The McGarry v. Zambo case created significant confusion by raising questions about whether a subsequent deed transfer automatically revokes a prior TOD designation, leading to costly litigation and uncertainty in property transfers. This bill explicitly requires that revocations must be made through one of three specific methods: a new TOD designation, an express revocation instrument, or an inter vivos deed (a deed transferring property during the owner's lifetime) containing an express revocation clause.

The legislation also streamlines property documentation requirements by allowing the use of the most recent property tax bill rather than specifically requiring the previous year's bill. This simple change reduces administrative barriers while maintaining proper documentation standards.

Another important update provides clear guidelines for multiple-owner properties, specifically addressing joint tenancies and survivorship marital property. The requirement that all living owners must consent to revocation ensures proper protection of property rights while preventing unilateral actions that could create legal complications.

The bill also addresses important concerns in real property wholesaler transactions. It provides clear guidelines for the disbursement of deposits or option fees when contracts are rescinded. Under the new provisions, persons holding such deposits may return them to the appropriate party - either the seller or third-party assignee - without facing liability. This addition provides

needed certainty and protection for all parties involved in wholesaler transactions. Additionally, the bill modernizes the process for recording satisfactions of judgments, allowing for more efficient processing while maintaining the integrity of public records.

These changes will significantly reduce the potential for litigation, streamline property transfers, and provide certainty for property owners, wholesalers, and their beneficiaries. The reforms maintain proper safeguards while eliminating unnecessary complexity in the transfer process.

Both the Wisconsin Realtors Association and the Wisconsin Land Title Association support this legislation, recognizing its importance in clarifying property transfer procedures and reducing legal uncertainty in real estate transactions.

Thank you for your consideration of this important legislation.