

**IN THE  
SUPREME COURT OF MISSOURI**

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**No. SC83863**

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**HOME BUILDERS ASSOCIATION OF GREATER ST. LOUIS**

**Respondent,**

**v.**

**STATE OF MISSOURI, ET AL.,**

**Appellants.**

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**Appeal from the Cole County Circuit Court  
The Honorable Thomas J. Brown, III, Judge**

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**APPELLANTS' BRIEF**

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## **JURISDICTIONAL STATEMENT**

This case concerns the constitutional validity of a statute of the state of Missouri and, therefore, the Supreme Court of Missouri has exclusive jurisdiction to hear this appeal under MO. CONST. art. V, § 3.

## **STATEMENT OF FACTS**

The originally introduced SB 894 contained the repeal of 13 sections and the enactment of 13 new sections. L.F. 190, ¶ 7. During the legislative process, the bill underwent changes, which culminated in CCS HS HCS SCS SB 894. L.F. 190-91. That version was truly agreed to and finally passed by the Missouri General Assembly on May 16, 2000, and on July 13, 2000, was signed by the late Governor Carnahan. L.F. 191, ¶ 17 and L.F. 192, ¶ 22. Upon passage the bill contained changes to 70 sections. L.F. 111. The original title of the bill, “relating to property ownership,” was the title of the bill as enacted. L.F. 17 and 111.

The bill as originally introduced dealt with sheriff’s sales in certain first class counties; established a commission for the management, sale, and other disposition of the tax delinquent lands in home rule cities with populations of more than 400,000; and made other changes to city land trust commissions. L.F. 17-28. As finally passed, SB 894 included the changes regarding sheriff’s sales. L.F. 133-38. In addition, there were changes involving tax credits for farmer’s markets; mileage reimbursement for certain county assessors; authorization for park rangers with assigned responsibilities in certain first class counties; ownership of marinas by certain first class counties; approval by voters of zoning by county commissions for townships; authorization of a one-eighth of one percent sales tax levy in certain counties for

capital improvements for law enforcement facilities; granting to cities the authority to control trash accumulation as they do weed growth on property within that city; the number of commissioners in an industrial expansion commission in St. Louis City; changing the size of available small business tax credits for investments in community banks or community development corporations; the authority of the state auditor to monitor tax rate calculations in political subdivisions and enforcement of the appropriate rate by the attorney general; assessor fees for ad valorem taxes in first class counties; collection of delinquent real estate taxes; development of rules and regulations for the Agri-Missouri marketing program; creation of the Missouri Agricultural Products Marketing Development Fund; authorization for joint contracting among municipalities, public water supply districts, sewer districts, nonprofit water companies, and nonprofit sewer companies; transfer of tax credits for research expenses at state universities; removal of persons from participation in public water supply districts; requiring the Department of Natural Resources to issue certification of compliance of hazardous waste corrective action plans when approved by the Department; and property tax rates for junior college districts. L.F. 111-81.

Plaintiff, Home Builders Association of Greater St. Louis, hereinafter referred to as Home Builders, filed suit challenging the constitutionality of SB 894, on December 8, 2000. L.F. 6-181. The parties filed a Joint Stipulation of Facts, L.F. 189-93, and a Supplemental Joint Stipulation of Facts, L.F. 194-95, upon which the court reached its decision.

Home Builders asserted that the purpose of the bill changed after introduction, that the bill contained multiple subjects, and that the title was not clear. L.F. 6-16. Both parties filed

motions for summary judgment with supporting memoranda. L.F. 196-247. On June 28, 2001, the Circuit Court of Cole County entered a Final Judgment with Findings of Fact and Conclusions of Law, finding in favor of Home Builders on all counts and voiding the entire SB 894. L.F. 248-64. A timely notice of appeal followed. L.F. 265-87.

## POINTS RELIED ON

### I

The circuit court erred in finding SB 894 unconstitutional because the plaintiff has standing in that the plaintiff was injured, if at all, only by the title insurance portions of the bill and the inclusion of those provisions in SB 894 did not violate MO. CONST. art. III, § 21 or art. III, § 23.

*Americans United v. Rogers*, 538 S.W.2d 711 (Mo. banc), *cert. denied*,

97 S.Ct. 653, 429 U.S. 1029, 50 L.Ed.2d 632 (1976)

*State v. Mucie*, 448 S.W.2d 879 (Mo. 1970)

*Stroh Brewery Company v. State*, 954 S.W.2d 323 (Mo. banc 1997)

*Westin Crown Plaza Hotel Company v. King*, 664 S.W.2d 2 (Mo. banc 1984)

Section 140.150, RSMo 2000

MO. CONST. art. III, § 23

MO. CONST. art. III, § 21

### II

The circuit court erred in finding SB 894 violated the clear title mandate of MO. CONST. art. III, § 23 because the title, “relating to property ownership,” is a clear title in that all provisions related to the ownership, regulation, or disposition of real property.

*Carmack v. Director, Missouri Department of Agriculture*, 945 S.W.2d 956

(Mo. banc 1997)

*Corvera v. Abatement Technologies, Inc. v. Air Conservation Commission*,

973 S.W.2d 851 (Mo. banc 1998)

*Premier Property Management, Inc. v. Chavez*, 728 N.E.2d 476 (Ill. 2000)

*Missouri State Medical Association v. Missouri Department of Health*,

39 S.W.3d 837 (Mo. banc 2001)

MO. CONST. art. III, § 23

MO. CONST. art. I, § 26

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### III

**The circuit court erred in finding SB 894 violated the change of purpose provisions of MO. CONST. art. III, § 21 because the purpose of SB 894 did not change in contravention of the Missouri Constitution in that it began as a bill relating to the ownership, regulation, or disposition of real property and remained a bill relating to the ownership, regulation, or disposition of real property.**

*State v. King*, 303 S.W.2d 930 (Mo. 1957)

*Missouri State Medical Association v. Missouri Department of Health*,

39 S.W.3d 837 (Mo. banc 2001)

*C.C. Dillon Company v. City of Eureka*, 12 S.W.3d 322 (Mo. banc 2000)

*Blue Cross Hospital Service, Inc. of Missouri v. Frappier*, 681 S.W.2d 925

(Mo. banc 1984)

MO. CONST. art. III, § 21

## STANDARD OF REVIEW

In reviewing the entry of summary judgment, this court reviews the record *de novo* in the light most favorable to the nonmoving party. *ITT Commercial Financial Corp. v. Mid-America Marine Supply Corp.*, 854 S.W.2d 371 (Mo. banc 1993).

Statutes are presumed to be constitutional. *Westin Crown Plaza Hotel Company v. King*, 664 S.W.2d 2, 5 (Mo. banc 1984). In reviewing a statute against a constitutional challenge, this court is to construe any doubts regarding that statute in favor of its constitutionality. *Id.* Unless an act “clearly and undoubtedly” violates any of the above constitutional limitations, that act shall be upheld. *Hammerschmidt v. Boone County*, 877 S.W.2d 98, 102 (Mo. banc 1994).

## ARGUMENT

### I

**The circuit court erred in finding SB 894 unconstitutional because the plaintiff has standing in that the plaintiff was injured, if at all, only by the title insurance portions of the bill and the inclusion of those provisions in SB 894 did not violate MO. CONST. art. III, § 21 or art. III, § 23.**

A constitutional question cannot be raised by someone whose rights are not, or are not about to be, adversely affected. *State v. Mucie*, 448 S.W.2d 879 (Mo. 1970). Standing requires that the party has a personal stake arising from either a threatened or actual injury. *State ex rel. Williams v. Mauer*, 722 S.W.2d 296 (Mo. banc 1986). Home Builders lacks standing here because neither it nor its members suffer injury from the constitutional violation it alleges.

Home Builders is an association of builders which acquires title insurance as part of their marketing of property. L.F. 194 and 240. The importance of their interest in the regulation of title insurance was demonstrated by the parties filing a supplemental joint stipulation of facts, which first paragraph reads:

Home Builders Association's members purchase title insurance in the course of purchasing, subdividing, development and selling property. As purchasers of title insurance, Home Builders Association's members have an interest in the

availability, sale and marketing of title insurance in Missouri, and in particular, in the pricing of title insurance coverage.

L.F. 194. No other interest is asserted by Home Builders.

Home Builders has no cognizable interest in any of the provisions of SB 894 that deal with anything other than title insurance. It asserted before the circuit court the variety of provisions of SB 894, such as amendments to provisions relating to agricultural programs, farmer's markets, park rangers, planning and zoning, delinquent real property taxes, and junior college district real property tax rates, are not related to "property ownership." L.F. 206-07. However, it failed to show any interest in any of those provisions that give it standing to contest them. The circuit court in its Judgment even recognized that Home Builders had a special interest in the title insurance:

Home Builders Association's members purchase title insurance in the course of purchasing, subdividing, developing and selling property. As purchasers of title insurance, Home Builders Association's members have an interest in the availability, sale and marketing of title insurance in Missouri, and in particular, in the pricing of title insurance coverage.

(L.F. 249).

The state does not contest Home Builders' standing to challenge the title insurance portions of SB 894. But Home Builders cannot leverage that standing into a challenge to other portions of the law. Because the title insurance provisions are the only provisions that Home

Builders can challenge, those are the only provisions that should be in jeopardy of being found unconstitutional. When the provisions of SB 894 as originally proposed are compared to the added title insurance provisions, the bill withstands scrutiny. There is an obvious nexus between sheriff's sales (what Home Builders claims is the original purpose of the bill) and title insurance. L.F. 255, 257, 258-59, 261-63.

A sheriff's sale is the result of the failure of the owner in fee to pay property taxes. Before a sheriff's sale is permitted to go forward, notice must be sent to all record holders of interest in the property. However, that sale cannot extinguish the property rights of holders of deeds of trust without notice being given to all holders of any interest in the property. Section 140.150, RSMo 2000. Title companies are responsible for confirming the interests that exist for property. It is common that title companies are utilized to search the chains of title and provide title insurance when anyone for any reason, including sheriffs, need to find all record owners of a piece of real estate. The regulation of title insurance is a logical extension of the use of such insurance to assure that all parties required to be notified prior to a sheriff's sale are, in fact, notified. A purchaser of property takes the property subject to those interests. Therefore, there is a close nexus between title to property and actions to foreclose due to tax liens, which the circuit court ignored in its Judgment.

That nexus is sufficient under MO. CONST. art. III, § 23, which limits each bill to "one subject which shall be clearly expressed in its title." The comparison of the title "relating to property ownership" to the title insurance portion of the bill's amendments and its original provisions reveals that the title does reflect the general contents of the act. Under these

circumstances, the title of SB 894 does not violate the Constitution. *See Westin Crown Plaza Hotel Company v. King*, 664 S.W.2d 2 (Mo. banc 1984).

This court held in *Hammerschmidt v. Boone County*, 877 S.W.2d 98 (Mo. banc 1994) that so long as a disputed matter is germane, connected, and congruous with the rest of the bill, the bill does not violate the single subject rule. Attacks against legislative action founded on constitutionally-imposed procedural limitations are not favored, and such limitations are interpreted liberally to uphold the action, unless it clearly and undoubtedly violates such limitations and courts have consistently avoided interpretations that will limit or cripple legislative enactments any further than is made necessary by the absolute requirements of the law. *Hammerschmidt*, 877 S.W.2d at 102.

The nexus between sheriff's sales and title insurance also illuminates the act's compliance with MO. CONST. art. III, § 21, which provides that no bill can be passed in which its original purpose has been changed. This court has recognized that a liberal interpretation of the limitations of both MO. CONST. art. III, §§ 21 and 23 is necessary to prevent them from inhibiting the normal legislative processes, in which bills are combined and additions reflecting the legislative intent are made. *Blue Cross Hospital Service, Inc. of Missouri v. Frappier*, 681 S.W.2d 925, 929 (Mo. banc 1984); *Westin*, 664 S.W.2d at 6 (citing *State v. Williams*, 652 S.W.2d 102, 108 (Mo. banc 1983)).

This court has held that only clear and undoubted language limiting the purpose will support a change-of-purpose challenge. *Stroh Brewery Company v. State*, 954 S.W.2d 323 (Mo. banc 1997). The subject of the bill "includes all matters that fall within or reasonably

relate to the general core purpose of the proposed legislation.” *Hammerschmidt*, 877 S.W.2d at 102. To determine whether there is a “single subject” violation, the court will first identify the general, core purpose of the bill and then look at the challenged provision to determine if it is related or connected to the bill’s subject. If they are fairly related or naturally connected, the court will find no violation of the single subject requirement. Here, the core purposes of SB 894 were to control, manage, transfer, or tax certain aspects of real property ownership and, when viewed in that context, SB 894 withstands scrutiny.

Home Builders lacks a legally cognizable interest in any of the other provisions of SB 894 because there is no threatened or actual injury by those other provisions. To the extent there is a legally cognizable interest, it comes from the title insurance provision. *Eastern Missouri Laborers District Council v. St. Louis County*, 781 S.W.2d 43 (Mo. banc 1989). This court, upon reviewing the originally introduced provisions and the added provisions regarding title insurance, should thus reverse the decision and find that SB 894 in its entirety is constitutional. In the alternative, this court should remand this matter to the circuit court with directions that the court consider only the original provisions of SB 894 and the title insurance provisions in deciding whether the title insurance provisions were added in a constitutional fashion with further instructions to the circuit court that all remaining provisions of SB 894 be declared constitutional.

## II

**The circuit court erred in finding SB 894 violated the clear title mandate of MO. CONST. art. III, § 23 because the title, “relating to property ownership,” is a clear**

**title in that all provisions related to the ownership, regulation, or disposition of real property.**

Should this court decide that the circuit court properly allowed Home Builders to challenge all the added provisions of SB 894, it should nevertheless reverse the circuit court because SB 894 is constitutional. Statutes are presumed constitutional and a party challenging a statute bears a heavy burden. *Americans United v. Rogers*, 538 S.W.2d 711 (Mo. banc), *cert. denied*, 97 S.Ct. 653, 429 U.S. 1029, 50 L.Ed.2d 632 (1976).

This court has held that when analyzing a clear title challenge to legislation it is appropriate to look at the Missouri Constitution. *Carmack v. Director, Missouri Department of Agriculture*, 945 S.W.2d 956, 960 (Mo. banc 1997). The same should be true in examining the title challenge Home Builders has raised to SB 894.

A review of the Missouri Constitution reveals at least ten references to “property.” *See* MO. CONST. art. I, §§ 26, 27, and 28; art. IV, § 41; art. X, § 4(a), 4(b), and 4(c); and art. X, §§ 6, 8, and 9. Each reference to property includes “real property” and, in the instances of eminent domain, “real property” is the primary focus of the provisions. *See*, e.g. MO. CONST. art. I, §§ 26, 27, and 28 and art. IV, § 41. In the Missouri Constitution, “property” clearly includes “real property” and is the major focus of many of those provisions. “Property” cannot be too amorphous a term (as the circuit court held, *see* L.F. 262-63) when the Constitution itself uses that term and applies it to real property at least ten times.

The circuit court rejected the state’s argument that the title “relating to property” should be read to mean “real property.” L.F. 261-63. That ruling is erroneous because this court has

ruled that a liberal interpretation of the clear title limitation is necessary to prevent inhibiting the legislative process. *Blue Cross Hospital Service, Inc. of Missouri v. Frappier*, 681 S.W.2d 925 (Mo. banc 1984). All the provisions of SB 894 “fairly relate” to real property and have a “natural connection” to real property which is enough to withstand a clear title challenge. *Hammerschmidt v. Boone County*, 877 S.W.2d 98 (Mo. banc 1994)

An analysis of all the provisions of SB 894 reveals that each relates in some fashion to the ownership, regulation, or disposition of real property, and not to the broad definition of property found by the trial court. For instance, park rangers patrol real property (*see* § 64.337 of SB 894); township planning commissions have the authority for master plans for real property development (*see* § 64.725 of SB 894); the revenue generated by the sales tax of § 67.582.3 of SB 894 is authorized to be used for capital improvement projects for law enforcement facilities, which involves real property; and the Missouri Agricultural Products Marketing Developmental Fund (*see* § 261.037 of SB 894) promotes agricultural products which are produced on real property.

Considered in its constitutional context, “property” is no more general than “environmental control,” which this court held was a clear title to a bill that involved underground storage facilities, asbestos abatement, and drillers of wells. *Corvera v. Abatement Technologies, Inc. v. Air Conservation Commission*, 973 S.W.2d 851 (Mo. banc 1998). Thus the Illinois Supreme Court recently ruled that “an act in relation to property” referred to a single subject, which was real property. *Premier Property Management, Inc. v. Chavez*, 728 N.E.2d 476, 483 (Ill. 2000). The analysis in *Premier Property Management*,

*Inc.* is equally applicable in Missouri and was consistent with *Corvera*. It confirms that the circuit court erred in ruling SB 894 unconstitutional especially in light of the deference to be paid legislative enactments. *Missouri State Medical Association v. Missouri Department of Health*, 39 S.W.3d 837, 839 (Mo. banc 2001).

### III

**The circuit court erred in finding SB 894 violated the change of purpose provisions of MO. CONST. art. III, § 21 because the purpose of SB 894 did not change in contravention of the Missouri Constitution in that it began as a bill relating to the ownership, regulation, or disposition of real property and remained a bill relating to the ownership, regulation, or disposition of real property.**

In determining whether a statute is constitutional, courts are guided by the principles that statutes are presumed to be constitutional, *see Westin Crown Plaza Hotel Company v. King*, 664 S.W.2d 2, 5 (Mo. banc 1984), and that a party challenging a statute's constitutionality bears a heavy burden. *Americans United v. Rogers*, 538 S.W.2d 711 (Mo. banc), *cert. denied*, 97 S.Ct. 653, 429 U.S. 1029, 50 L.Ed.2d 632 (1976); *State ex rel. Mathewson v. Board of Election Commissioners of St. Louis County*, 841 S.W.2d 633 (Mo. banc 1992). A statute will not be held unconstitutional unless it clearly and undoubtedly contravenes the Constitution. *State v. King*, 303 S.W.2d 930 (Mo. 1957).

This court has, to the best of the state's knowledge, on only one occasion found that a statute violated the change of original purpose rule. *Allied Mut. Ins. Co. v. Bell*, 185 S.W.2d 4 (Mo. 1945). Home Builders wants to be the second such successful plaintiff, but its claim

fails. As with its multiple subject claim, Home Builders begins here by addressing, out of context and without conforming to this court's precedents, the breadth of the term, "property ownership." Home Builders claimed, and the circuit court accepted its claim, that "property ownership" was too broad or amorphous a term, asserting that almost anything that exists could be classified as property. L.F. 261-63. The court relied in its order on *Carmack v. Director, Missouri Department of Agriculture*, 945 S.W.2d 956 (Mo. banc 1997). L.F. 263. However, this court in *Missouri State Medical Association v. Missouri Department of Health*, 39 S.W.3d 837 (Mo. banc 2001) did not give *Carmack* the broad reading that Home Builders seeks:

This Court observed that *economic development* is too broad and amorphous where it includes "any activity that indirectly promotes or protects portions of the Missouri economy," because nearly every activity the state undertakes falls within this meaning. *Carmack*, 945 S.W.2d at 960. Here, *health services* does not include nearly every activity the state undertakes.

MSMA concludes that *health services* "could relate to nearly any subject" and is thus too broad and amorphous. This Court rejected a similar attack on the subject of *environmental control*. *Corvera Abatement Tech. v. Air Conservation Comm'n*, 973 S.W.2d 851, 861-62 (Mo. banc 1998). This Court

construes bill titles in their plain and ordinary sense, not in a strained and unnatural meaning. *Id.* at 862. If alternative readings exist, this Court chooses the reading that is constitutional. *Stroh*, 954 S.W.2d at 326.

*MSMA* at 841.

In this case, the title refers to “property ownership,” which does not rise to the level of “economic development” and is more similar to “environmental control” or “health services.” The test for compliance with MO. CONST. art. III, § 21 is whether all of the provisions of a bill fairly relate to the subject expressed in its title, have natural connections therewith, or are “incidents or means to accomplish” the expressed purpose. *Blue Cross Hospital Service, Inc. of Missouri v. Frappier*, 681 S.W.2d 925, 930 (Mo. banc 1984); *Hammerschmidt v. Boone County*, 877 S.W.2d 98, 102 (Mo. banc 1994). “Property” is defined as “a piece of real estate.” See AMERICAN HERITAGE DICTIONARY 1452 (3d ed. 1996). This court has held that only clear and undoubted language limiting the purpose will support an MO. CONST. art. III, § 21 challenge. *Stroh Brewery Company v. State*, 954 S.W.2d 323 (Mo. banc 1997). “When alternative readings of a statute are possible, we must choose the reading that is constitutional.” *Stroh*, 954 S.W.2d at 326. Because “property” means “real property” and there is no clear and undoubted language limiting the purpose in SB 894, the circuit court erred in ruling SB 894 unconstitutional.

There were, of course, considerable additions to SB 894 during the legislative process. However, all of the provisions relate to the ownership of real property, either through the

regulation of such property, the taxation of such property, the use of such property, or the disposition of such property. Therefore, those amendments all “have a natural connection” with the bill’s purpose of “property ownership” or “are incidents or means to accomplish its purpose.” *Westin*, 664 S.W.2d at 6. SB 894 relates to property ownership. Any provision that is connected to property ownership is germane and in keeping with the *Westin* decision.

This court has often reviewed legislative compliance with MO. CONST. art. III, § 21. In a number of those cases, the statute under scrutiny survived review because the court took a realistic approach to this requirement rather than the narrow approach urged by Home Builders. The court’s approach is based on the premise that the “original purpose” provision is not designed to “inhibit the normal legislative process, in which bills are combined and additions necessary to comply with legislative intent.” *Blue Cross Hospital Service*, 681 S.W.2d at 929. Amendments that are germane and reasonably relate to the object of legislation are not prohibited, even if those amendments introduce new matter to the underlying bill. *Lincoln Credit Co. v. Peach*, 636 S.W.2d 31, 38 (Mo. banc 1982). Thus, in cases similar to this case, the court has declined to overturn legislation based upon a challenge that the original purpose of the legislation was changed in contravention of MO. CONST. art. III, § 21.

The most notable recent example is *Stroh Brewery Company*. There the court considered a bill that as introduced contained one section “relating to the auction of vintage wine, with penalty provisions.” *Stroh*, 954 S.W.2d. at 325. During the legislative process, that bill took on additional amendments and eventually grew to nine sections, including the original section relating to vintage wine and other topics such as marketing of alcohol, Sunday licenses

for sale of alcohol, age requirements for sellers of alcohol, labeling requirements for malt liquor, and additional penalties for violations of the Liquor Control Law. HCS/SB 933 (1996). Due to these expanding amendments, the finally passed bill was entitled “an act . . . relating to intoxicating beverages.” *Stroh*, 954 S.W.2d at 325.

In *Stroh*, the court recognized that the original purpose of a bill must be determined at the time of introduction. *Stroh*, 954 S.W.2d at 326. Even though the original bill dealt only with the auction of vintage wine, *Stroh* held that other sections relating to liquor control could be added without changing its original purpose, even if the title was expanded, when those sections were generally consistent with the overarching purpose of liquor control. *Stroh*, 954 S.W.2d at 326.

The court has taken this same approach in two other recent cases, *MSMA*, and *C.C. Dillon Company v. City of Eureka*, 12 S.W.3d 322 (Mo. banc 2000). In *MSMA*, the court reiterated that there is no constitutional requirement that a purpose be stated anywhere, and certainly none that the purpose be stated in the title. *MSMA*, 39 S.W.3d at 839. In *C.C. Dillon*, the court reiterated that it will liberally interpret the purpose of a statute to try to find no constitutional violation. *Dillon*, 12 S.W.3d at 327. In *Blue Cross Hospital Service*, 681 S.W.2d at 929, this court reminded us that MO. CONST. art. III, § 21 is not intended to inhibit normal legislative processes and that it is appropriate to make additions and changes to bills as they go through the legislative process. Based upon these doctrines, during the 125 year history of this constitutional provision the court has consistently rejected “original purposes”

challenges when legislation has proceeded in the manner of germane amendments being added. See *MSMA*, 39 S.W.3d at 840.

Those doctrines lead to the defeat of Home Builders' claim, just as they led to the defeat of the challenge in *Stroh*. The purpose of the finally enacted legislation regarding title insurance is to ensure that property buyers and sellers are protected when they rely upon companies issuing title insurance. The broad purpose related to protecting the interests of potential property buyers and sellers did not change; it was in both SB 894 as introduced and as enacted.

### **CONCLUSION**

The circuit court erred in allowing Home Builders to challenge those provisions of SB 894 of which it had no legal cognizable interest, thereby invalidating an entire bill to which only one portion did Home Builders have a right to challenge. Thus the court should reverse the judgment below and remand the circuit court to review only the provisions related to title insurance to determine their constitutionality and to direct the circuit court to find the remainder of SB 894 constitutional.

Alternatively, if this court determines that Home Builders had the right to challenge all the provisions of SB 894, the circuit court erred in finding that SB 894 was enacted in violation of the clear title, single subject, and change of purpose requirements of the Missouri Constitution in that all the provisions of the bill as enacted relate to real property. Under this alternative, the state respectfully requests this court to reverse the circuit court with directions to enter a judgment finding SB 894 constitutional.



Respectfully submitted,

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## **CERTIFICATE OF SERVICE AND COMPLIANCE**

The undersigned assistant attorney general hereby certifies that:

- (1) The attached brief complies with the limitations contained in Special Rule 1(b) of this court in that it contains 5,016 words, excluding the cover, this certification, and any appendix, as determined by WordPerfect 9 software; and
- (2) The floppy disk filed with this brief, containing a copy of this brief, has been scanned for viruses and is virus-free; and
- (3) Two true and correct copies of the attached brief and a floppy disk containing a copy of this brief, were mailed, postage prepaid, this 27th day of November 2001 to:

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