



**House
Legislative
Analysis
Section**

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LIEN FILING INFO: COPY FEES

House Bill 5216 as passed by the House
Second Analysis (2-5-90)

Sponsor: Rep. John D. Pridnia
Committee: Towns and Counties

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THE APPARENT PROBLEM:

Many counties in Michigan are finding that the fees that statute allows them to charge for various services mandated by law fall far short of actual costs. For example, under Article 9 of the Uniform Commercial Code, the secretary of state and local registers of deeds are required, upon request, to conduct a lien search and provide a certificate which gives information on particular debtors from commercial financial records on file. The code imposes a \$3 fee for a lien search request submitted on a standard form used by the secretary of state (which includes the debtor's social security number or federal employer tax identification number); otherwise the fee is \$6. These fees haven't been changed since 1978, although the costs of providing the service has.

A number of bills have been introduced in the legislature to raise various statutory fees for mandated services, including a bill to raise lien search and copying fees set by the Uniform Commercial Code.

THE CONTENT OF THE BILL:

The bill would amend the section of the Uniform Commercial Code that sets fees for lien searches and copying done by the secretary of state and by county registers of deeds. Copying fees would be raised to \$2 per page, up from the present \$1 per page, and the fees for certificates (presently \$3 if the request is in the standard form set by the secretary of state, or \$6 otherwise) would be raised to \$7 and \$14 respectively.

MCL 440.9407

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would result in enhanced revenues for local governments in an indeterminate amount. (2-5-90)

BACKGROUND INFORMATION:

The bill is one of a five bill package, introduced simultaneously into the House of Representatives and the Senate, that would increase various statutorily set county user fees:

- House Bill 5216 and Senate Bill 603 (lien searches);
- House Bill 5166 and Senate Bill 607 (property transfer taxes);
- House Bill 5175 and Senate Bill 604 (various sheriff's fees for civil claims and actions and register of deeds' copying fees);
- House Bill 5189 and Senate Bill 606 (treasurers' statement fees such as tax history searches, deed certifications, etc.); and
- House Bill 5190 and Senate Bill 605 (prisoner transfer fees).

ARGUMENTS:

For:

Counties have been experiencing labor and supply costs which are increasing at a rate greater than their increase in revenues, including costs incurred by counties to provide statutorily mandated services. Although these mandated costs have increased significantly, statutory fees have not been increased recently to meet these costs. As a result, mandated services are in effect being subsidized by county general fund tax dollars, which unfairly burdens county taxpayers and restricts the ability of counties to provide needed local services and programs. Counties cannot afford to continue to provide mandated services without recovering the costs from the users of these services. The bill would help ease financial burdens on counties by setting lien search and copying fees that recovered the costs of providing these services.

Against:

Reportedly, the present copying charge of \$1 per page already is profitable for counties, due to the fact that even though each certificate is only half a page, county offices copy each certificate separately instead of copying two certificates at a time. For agricultural lien searches in particular, copying charges can get very expensive (up to \$75 a search). And since the lending institution passes the costs on to the debtor, this means that farmers wind up unnecessarily subsidizing county office expenses. Raising the copying fees to \$2 per page will make these copying operations not just profitable, but extremely profitable — and at the expense of already hard-pressed farmers. The copying fees should not be raised.

Response: Even though the actual cost of copying is considerably less than the fee charged, nevertheless the cost of storing and maintaining (not to mention searching) the files still has to be borne by county offices. In light of these expenses, \$2 per page is not unreasonable.

Reply:

If counties need money for storage and maintenance of files, they should raise filing fees and not try to subsume these costs under copying fees.

Against:

Although security interest filings with the secretary of state must include the debtor's social security number or federal employer tax identification number, county filings do not. Yet, if a request to a county register of deeds for a lien search does not include a federal identification number, the fee still is double that for requests which include such a number. It seems unfair to penalize people who request county-level lien searches that do not include a federal identification number when the number is not required for filing in the first place. The bill should either require that such identification numbers be included on all filings or exempt county-level lien search requests that do not include

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a federal identification number from the higher fee.

Response: Most people will provide the identification number on their filings and lien search requests because lenders routinely obtain this information as part of their loan application process, and it is to one's advantage to provide the number with lien search requests. Bankers, moreover, are concerned that if a federal identification number was necessary for a financing statement to be sufficient, then a missing or erroneous number could result in a lender losing the perfection of the security interest and thus the higher priority that perfected interests have over unperfected interests.

POSITIONS:

The Department of State has no position on the bill. (2-2-90)

The Michigan Association of Counties supports the bill. (2-2-90)

The United County Officers Association of Michigan supports the bill. (2-2-90)