



**House  
Legislative  
Analysis  
Section**

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**FORECLOSURE NOTICES:  
RAISE SHERIFFS' FEES**

**House Bill 4942 with committee  
amendments  
First Analysis (2-15-96)**

**Sponsor: Rep. Tracey Yokich  
Committee: Judiciary and Civil Rights**

***THE APPARENT PROBLEM:***

The fees which may be charged by various court officers for various services are prescribed in the Revised Judicature Act (RJA). Public Act 133 (enrolled House Bill 5253) of 1994 amended the RJA to increase the fees for service of process -- which had remained unchanged since 1982 -- out of all of the trial courts. However, the fees that sheriffs' departments are authorized under the RJA to collect for posting notices on property for foreclosure sales, for conducting mortgage foreclosure sales, and for serving notice of a person claiming title under a tax deed were not increased and have remained unchanged since enactment of the RJA in 1963. At the request of the Macomb County sheriff's department, legislation has been introduced that would increase these fees.

***THE CONTENT OF THE BILL:***

The Revised Judicature Act entitles sheriffs to a \$10 fee for posting notices on property for foreclosure sales, for conducting foreclosure sales and issuing a deed to the buyer, and for serving notice of a person claiming title under a tax deed. The bill would amend the act to raise the posting fee and the fee for serving notice to \$14, and then to \$15 on October 1, 1996, and to \$16 on October 1, 1997. The bill also would raise the fee for conducting mortgage foreclosures to \$50, and would require the party seeking to redeem property sold at a foreclosure sale to pay this higher fee for selling the land, in addition to paying the other currently required costs and fees.

MCL 600.2558 and 600.3240

***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill has no fiscal implications. (2-13-96)

***ARGUMENTS:***

***For:***

The fees for service of civil process were increased last year, enacting a long-overdue increase of process servers' fees (which are paid by attorneys and their clients). These fees had not increased since 1982. However, similar kinds of sheriffs' fees have not been increased since the Revised Judicature Act was enacted 33 years ago, even though the paperwork necessary to complete a sheriffs' mortgage foreclosure sale has increased since then, as have their premiums for liability insurance, their public official bonds, and inflation. The proposed increase in fees would bring sheriffs' fees in line with the increase in process servers' fees last year, and would allow Michigan sheriffs to recoup related costs for the paperwork and staff hours involved in processing foreclosure sales. At the same time, the increases wouldn't directly affect the general public, since only those who request the service of tax notices and posting of foreclosure notices or who initiate the foreclosure process pay these fees.

When handling the sale on a mortgage foreclosure, sheriffs' departments are responsible for holding an auction, executing a deed to the buyer, determining the amounts due to the lender and mortgager, and executing the distribution of those proceeds. When the \$10 fee was established by the RJA (which was enacted in 1961 and took effect in 1963), most foreclosure auctions reportedly ended with the lending institution being the only bidder and the paperwork was relatively simple. Now, however -- and especially, reportedly, in the last five years -- many investors have gotten involved in attending mortgage foreclosure auctions, and "overbidding" -- which greatly increases the amount of paperwork involved -- has become common. In Macomb County, for example, there reportedly have been bids which exceeded the amount owed to the lender by over \$60,000, and there have been instances

of five overbids at a single auction. Sheriffs' departments not only are responsible for holding auctions and keeping bidders in line, but also must process the paperwork -- which greatly increases whenever third party bidders are involved -- and disburse the proceeds. Deeds must be changed to reflect the new owners, a determination has to be made as to the disbursement of the proceeds collected at the auction, and checks must be made to the lender and to the mortgager, who is entitled to surplus funds. Sometimes other lienholders file claims to surpluses, which means that a check must be sent to the circuit court for a case to be opened and for a judge to decide who is entitled to the surplus funds. This increase in the amount of work that sheriffs' departments must do is no longer compensated for by the current \$10 fees. In order to more equably compensate sheriffs, reasonable fee increases are much-needed and long overdue.

### ***POSITIONS:***

Representatives from the Court Officers and Deputy Sheriffs, Process Servers of Michigan testified in support of the bill. (2-14-96)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.