



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4817 (Substitute H-1 as reported without amendment)
Sponsor: Representative David Farhat
House Committee: Commerce
Senate Committee: Banking and Financial Institutions

CONTENT

The bill would amend Revised Statute 65 of 1846 (which provides in part for the recording of conveyances by deed and the discharge of mortgages) to change the deadline for filing a discharge, and increase the penalty for failing to file a discharge or execute a certificate of release on time after a request.

Currently, a mortgagee must prepare a discharge of the mortgage and file it with the register of deeds for the county in which the mortgaged property is located, within 90 days after the mortgage has been paid or otherwise satisfied. In addition, if a mortgagee, after the mortgage has been satisfied, refuses or fails to discharge the mortgage or to execute a certificate of discharge or release of the mortgage, within seven days after being requested to do so, the mortgagee is liable for damages of \$100 to the mortgagor, and for actual damages caused by the neglect or refusal to a person with an interest in the mortgaged property.

Under the bill, for the first two years after its effective date, a mortgage would have to be discharged, a certificate would have to be executed and acknowledged, and a discharge of a mortgage would have to be filed within 75 days. Beginning two years after the bill took effect, the deadline would be 60 days. If a mortgagor refused or failed to discharge a mortgage or to execute and acknowledge a certificate of discharge or release within the required time period, after a request, the mortgagor would be liable for damages of \$1,000 to the mortgagor, as well as actual damages.

In addition, under the bill, if a discharge of mortgage received by a register of deeds were not recorded on the day it was received, the register of deeds would have to place on or attach to the discharge the date it was received. The date could be placed or attached by a stamp, electronically, or otherwise and would be prima facie evidence of the date the discharge was filed with the register of deeds.

MCL 565.41 & 565.44

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 12-3-04

Fiscal Analyst: David Zin