



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4517 (Substitute H-1 as reported without amendment)
House Bill 4519 (Substitute H-1 as reported without amendment)
Sponsor: Representative Barb Byrum
House Committee: Intergovernmental, Urban and Regional Affairs
Senate Committee: Local, Urban and State Affairs

Date Completed: 7-25-07

RATIONALE

Registers of deeds are responsible for receiving and recording deeds, mortgages, liens, and other legal documents relating to real property. These documents are part of the public record and can be found in the office or on the website of a register of deeds. Because many of these documents contain names, addresses, and Social Security numbers (SSNs), they can provide an opportunity for a person to commit identity theft or otherwise misuse an individual's personal information.

In order to protect an individual's personal information and prevent identity theft, it has been suggested that registers of deeds be required to reject new documents that contain SSNs.

CONTENT

House Bills 4517 (H-1) and 4519 (H-1) would amend Public Act 20 of 1867 (which governs the recording of deeds, mortgages, and instruments of record) and Public Act 123 of 1915 (which governs the recording of affidavits affecting the title of real property), respectively, to prohibit a register of deeds from receiving certain documents for recording unless the first five digits of any SSN appearing in or on the document were obscured or removed.

House Bill 4517 (H-1) would apply to an instrument or reproduction of an instrument. House Bill 4519 (H-1) would apply to an affidavit stating facts relating to matters affecting real property.

The prohibition would not apply if State or Federal law, rule, regulation, or court order or rule required all or more than four sequential digits of the number to appear.

The prohibition under House Bill 4517 (H-1) would apply beginning on the bill's effective date, or, for an instrument or reproduction presented to a register of deeds by the Department of Treasury, April 1, 2008.

MCL 565.491 (H.B. 4517)
565.452 (H.B. 4519)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

According to the Federal Trade Commission, 255,565 Americans, including 7,139 in Michigan, were victims of identity theft in 2005. Identity thieves can obtain credit cards, take out loans, buy a car, and more, with as little personal information as a person's Social Security number, name, and date of birth. Correcting the damage that results from identity theft has cost the State and individuals a significant amount of time and money. The bills would help protect the privacy of personal information with practical and reasonable requirements. Under the bills, registers of deeds would have to reject new documents that contain full SSNs, but would not have to meet strict deadlines to remove SSNs from already-recorded documents.

Opposing Argument

Because the bills would not require registers of deeds to remove SSNs from documents that had already been recorded, many original documents would never be redacted. The SSNs in those documents still could be stolen by employees or others with access to the documents in a register's office. In order to protect personal information fully, the bills should require that SSNs on all public documents, including originals, be removed.

Response: It would be very difficult, if not impossible, for registers of deeds in the State to edit every document that contains an SSN. Because document formats and real estate-related laws have changed many times over the last several decades, the filing systems in many register of deeds offices have become very complex. For example, the method for redacting a document on microfiche is different than the methods used for redacting scanned computer documents and hard copies.

The experience in Texas is illustrative. After the Attorney General of Texas opined that governmental bodies in Texas could not publish or otherwise disclose SSNs of living people, county clerks in the state attempted but were unable to edit effectively the large number of documents for which they are responsible. After one week, the opinion was abated to allow the Texas legislature to find an alternative solution. According to the Attorney General, "The real-world consequence was a virtual halt to a tremendous amount of business and commerce in Texas." If registers of deeds in Michigan were required to remove all SSNs on recorded documents, registers would not be able to comply and real property transactions in the State would be adversely affected as they were in Texas.

Opposing Argument

The bills would not adequately protect SSNs because the requirements to obscure or remove the numbers would not apply if otherwise required by State or Federal law or rule, which can be the case for documents published by the State or Federal government. To protect his or her personal information, an individual should be able to request that his or her SSN be removed from any public document, including those published by the government.

Response: State government uses SSNs as identifiers when trying to locate an

individual who owes the State money or who otherwise needs to be found. The State must publish SSNs because names and other information often are not enough to impose a property lien effectively. Also, the cost and time that would be needed for the State to edit documents containing SSNs that it uses and publishes would make it difficult for the State to comply.

Opposing Argument

The bills might impose an undue burden on registers of deeds. Sometimes, there are delays between the receipt of the document by the register of deeds and the date it is considered recorded. The requirement in the bills that the SSN be removed or obscured before recording the document could exacerbate these delays. Additionally, it is unclear whether an instrument or affidavit recorded with a visible SSN, regardless of the requirement in the bills, would still be valid.

Legislative Analyst: Craig Laurie

FISCAL IMPACT

The bill would have no fiscal impact on State or local revenue. The bill could increase expenditures for the State and some local units by an unknown amount, depending on the costs of adapting systems to the changes, the number of affidavits from which identifying information must be obscured or removed, as well as the number of local units that already have opted to obscure or remove the specified information.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.