



Senate Fiscal Agency  
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BILL



ANALYSIS

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House Bill 4673 (Substitute H-1 as reported without amendment)

Sponsor: Representative Pam Byrnes

House Committee: Commerce

Senate Committee: Commerce and Tourism

Date Completed: 9-18-07

## **RATIONALE**

Public Act 39 of 1961 prohibits a person from advertising or holding certain types of sales of goods, such as a bankruptcy or going-out-of-business sale, without first obtaining a local license. A \$50 fee must accompany any application for a license or license renewal. Since a person typically would conduct a sale regulated by the Act because of a financial hardship, some people believe that local clerks should have the option of waiving the fee for a license.

A license issued under the Act may not be issued or valid for more than 30 days from the start of the sale, and the sale may be conducted only during the period identified in the license. A license may be renewed, not more than twice, for up to 30 days for each renewal. A \$50 fee must accompany an application for a license or a license renewal. The bill would require the fee, unless the city, village, or township clerk receiving the application waived it.

## **CONTENT**

**The bill would amend Public 39 of 1961 (which regulates insurance, bankruptcy, mortgage, insolvent, assignee's, executor's, administrator's, receiver's, trustee's, and closing out sales and sales of damaged goods) to allow a city, village, or township clerk to waive the application fee for a license and license renewal to conduct a sale regulated under the Act.**

The Act prohibits a person from advertising, representing, or holding out that any sale of goods is an insurance, bankruptcy, mortgage, insolvent, assignee's, executor's, administrator's, receiver's, or trustee's sale, a going-out-of-business sale, or a sale of goods damaged by fire, smoke, water, or otherwise, unless the person first obtains a license from the clerk of the city, village, or township in which he or she proposes to conduct the sale. The Act does not apply to any sales by a person regularly engaged in insurance or salvage sale of goods, or the sale of goods that have been damaged by fire, smoke, water, or otherwise, who acquired the goods for the account of others as a result of fire or other casualty.

MCL 442.216

## **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**

A person who holds a sale regulated under Public Act 39 typically is undergoing a financial hardship, such as a failing business, a bankruptcy proceeding, or smoke or water damage to the goods offered for sale. It makes little sense to require such a person to pay to the local clerk a \$50 license fee for the privilege of conducting the sale and another \$50 if the sale license is renewed. The requirement to pay that fee just adds to the person's financial difficulties, and foregoing the fee should not pose a significant threat to revenue that supports local government services and programs. Local clerks should have the option of waiving the fee.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill would have no fiscal impact on the State. The bill could decrease revenue to local units of government by an unknown amount, depending upon the number of local units that opted to waive the fee and how frequently waivers were granted.

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.