

FORECLOSURE OF JUDGMENT LIENS

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Senate Bill 1092 with House committee amendment

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 12-13-12

A SUMMARY OF SENATE BILL 1092 AS REPORTED BY HOUSE COMMITTEE

The bill would amend Chapter 28 (Judgment Liens) of the Revised Judicature Act (MCL 600.2803 et al.) to do the following:

- Specify circumstances under which a judgment creditor (lender) could foreclose a judgment lien.
- Allow a judgment creditor to recover the amount due plus interest and foreclosure costs upon foreclosure.
- Specify the process for foreclosure of a judgment lien, including notice and sale requirements.
- Allow a register of deeds' fee for recording a notice of judgment lien to be taxed against a judgment debtor.
- Require a notice of judgment lien to be served by first-class mail, rather than by certified mail or personally.
- Require a partial discharge of judgment lien to fully release the parcel or parcels from the lien, and require the partial discharge to include the legal description of the parcel or parcels sold.

(Under Chapter 28, "judgment lien" means an encumbrance in favor of a judgment creditor against a judgment debtor's interest in real property.)

The RJA states that there is no right to foreclose a judgment lien created under Chapter 28. At the time a judgment debtor conveys, sells, or refinances the interest in real property that is subject to a judgment lien, the judgment debtor must pay the amount due to the judgment creditor.

Under the bill, there would be no right to foreclose a judgment lien created under Chapter 28 unless a judgment debtor conveyed, sold, or refinanced real property encumbered by a judgment lien and did not pay the amount due to the judgment creditor. In that case, and in the case in which the property were conveyed or sold and the grantee's interest in the property were insured under a policy of title insurance, the judgment lien would continue to encumber the real property with priority over all interests perfected after the judgment lien, including any lien, deed, encumbrance, or mortgage that resulted from the conveyance, sale, or refinancing, and the judgment creditor could foreclose the judgment lien on the real property.

FISCAL IMPACT:

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

POSITIONS:

The Michigan Creditors Bar Association indicated support for the bill. (12-12-12)

The Michigan Association of Registers of Deeds indicated support for the bill. (12-12-12)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Erik Jonasson

■ 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.