



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4227 (Substitute H-3 as reported without amendment)
House Bill 4228 (Substitute H-3 as reported without amendment)
Sponsor: Representative Paul Opsommer (H.B. 4227)
Representative Bruce Rendon (H.B. 4228)
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

CONTENT

The bills would create two new acts to prohibit transfer fee covenants from attaching to the title of real property, and to void any lien purporting to secure payment of a transfer fee. House Bill 4227 (H-3) would apply to nonresidential property and House Bill 4228 (H-3) would apply to residential property.

Under each bill, a transfer fee covenant that was executed on or after the bill's effective date, whether or not it was recorded, could not run with the title to the real property and would not be binding on or enforceable against any subsequent owner, purchaser, or mortgagee of any interest in the real property as an equitable servitude or otherwise. Any lien purporting to secure the payment of a transfer fee under a transfer fee covenant that was executed on or after the bill's effective date would be void.

Any person aggrieved by the imposition of a transfer fee, whether the original or subsequent transferee or purchaser, could bring an action to clear the title and void the transfer fee and for other equitable relief. In a successful action, the court could award actual reasonable attorney fees and other costs of bringing the action.

"Transfer fee covenant" would mean a declaration or covenant that requires or purports to require the payment of a transfer fee to the declarant or other person specified in the declaration or covenant or to that person's successors or assigns.

"Transfer fee" would mean a fee or charge payable upon the subsequent sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property located in Michigan, or payable for the right to make or accept a transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. The term would not include a number of items listed in the bills.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Date Completed: 4-14-11

Fiscal Analyst: Matthew Grabowski

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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.

Bill Analysis @ www.senate.michigan.gov/sfa