



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 62 (as enrolled)
Sponsor: Senator Curtis Hertel, Jr.
Committee: Local Government

Date Completed: 9-17-15

RATIONALE

Public Act 103 of 1937 prescribes conditions for the execution of instruments (that is, the completion of documents) to be recorded with the register of deeds. Specifically, an instrument conveying title to or an interest in real estate must meet certain requirements in order to be recorded, including a requirement that it contain the original signature of each person executing the instrument. Those requirements do not apply, however, to a document on which the signature is printed, typewritten, or stamped. Today, many documents that convey title to or an interest in real property are generated and delivered electronically, but the law includes no provision for the recording of a document with an electronically affixed signature. Some people believe that Public Act 103 should permit the recording of electronically signed documents.

In addition, the Act states that it does not apply to certain documents, including a death certificate. Reportedly, some registers of deeds have refused to record a certified copy of a death certificate, even though the Public Health Code specifies that a certified copy of a vital record is considered the same as the original. It has been suggested that the Act's exemption for a death certificate should include a certified copy of a death certificate.

CONTENT

The bill would amend Public Act 103 of 1937 to do the following:

- Provide that certain requirements would not apply to an instrument on which an electronic signature was affixed.**
- Provide that the Act would not apply to a certified copy of a death certificate.**

The bill would take effect 90 days after its enactment.

Under the Act, an instrument that conveys, assigns, encumbers, or otherwise disposes of the title to or any interest in real estate may not be received for recording by the register of deeds of any county unless the instrument complies with specified requirements. The requirements include the following:

- The name of each person purporting to execute the instrument must be legibly printed, typewritten, or stamped beneath the original signature or mark of the person.
- The name of any notary public whose signature appears upon the instrument must be legibly printed, typewritten, or stamped upon the instrument immediately beneath the signature of the notary.
- The address of each of the grantees in each deed of conveyance or assignment of real estate must be legibly printed, typewritten, or stamped on the instrument.

The requirements listed above do not apply to an instrument on which the signature itself is printed, typewritten, or stamped. Under the bill, those requirements also would not apply to an instrument on which the signature was electronically affixed.

The Act specifies that it does not apply to certain instruments, including a death certificate. Under the bill, the Act also would not apply to a certified copy of a death certificate described in Section 288b of the Public Health Code. (That section provides that a certified copy of a vital record is considered the same as the original.)

MCL 565.203

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

Public Act 103 of 1937 provides statewide standards that ensure consistency from county to county in the recording of certain instruments with registers of deeds. Generally, an instrument conveying real property must include an original signature, but the Act excuses from that requirement a document that includes a printed, typewritten, or stamped signature. The bill would update the statute to recognize the modern use of electronically affixed signatures on those documents and authorize the county register of deeds to record documents with electronic signatures.

Supporting Argument

According to testimony before the Senate Local Government Committee by the Ingham County Clerk, one of her constituents had difficulty filing a death certificate with the county's register of deeds because the document was a certified copy and not the true original. The Public Health Code specifies that a certified copy of a vital record "is considered for all purposes the same as the original and is prima facie evidence of the facts stated in the original". To ensure that registers of deeds accept certified copies of death certificates, the bill would include certified copies in a provision specifying that Public Act 103 of 1937 does not apply a death certificate.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Elizabeth Pratt

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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.