



Senate Fiscal Agency
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BILL



ANALYSIS

Telephone: (517) 373-5383
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Senate Bill 599 (Substitute S-4 as reported)
Senate Bills 600 and 601 (as reported without amendment)
Senate Bill 602 (Substitute S-1 as reported)
Senate Bill 603 (Substitute S-1 as reported)
Senate Bill 604 (as reported without amendment)
Senate Bill 737 (as reported without amendment)
Sponsor: Senator Peter MacGregor (S.B. 599, S.B. 600, & S.B. 737)
Senator Dale W. Zorn (S.B. 601 & S.B. 602)
Senator Darwin L. Booher (S.B. 603)
Senator Curtis Hertel, Jr. (S.B. 604)
Committee: Banking and Financial Institutions

CONTENT

Senate Bill 599 (S-4) would amend Section 2567 of the Revised Judicature Act (RJA) to do the following:

- Require a fee of \$30 to be paid to the register of deeds for recording a document, regardless of the number of pages.
- Require a fee of \$5 to be paid to certify a recorded document.
- Require the State Treasurer, by April 1 of the fifth year after the year in which the bill took effect, and then every five years, to adjust the recording fees to reflect the percentage change in the Consumer Price Index, or 5%, whichever was less, to the nearest \$5.

The \$30 recording fee would replace the current fee of \$8 for the first page and \$3 for each additional page. The \$5 certification fee would replace the current \$1 fee for a "seal of exemplification".

The bill also would require any of the fees required under Section 2567 to be paid when the document was left for recording unless one of the following applied: a) the document was an electronic document, the register of deeds accepted electronic documents for recording, and the fee was paid electronically within one business day after the document was received; b) the document was filed by a governmental entity under an agreement between it and the register of deeds that included a payment schedule for the fee; c) the document was a forfeiture certificate or redemption certificate under the General Property Tax Act; or d) the document was a notice of judgment of foreclosure, or a deed, under the General Property Tax Act.

Senate Bill 600 would amend Public Act 146 of 1937, which relates to the establishment and enforcement of liens for labor on oil and gas wells, to specify that a register of deeds would be entitled to receive the same fee for recording and indexing a verified statement of such a lien as provided for recording a real estate mortgage under Section 2567 of the RJA.

Senate Bill 601 would amend the Uniform Federal Lien Registration Act to require the fee for filing a notice of lien on real estate, or on tangible or intangible personal property, and the fee for other notices to be the same as the fee for recording a real estate mortgage.

Currently, the fee for filing of a notice of a lien on real estate is the same as the fee for recording a real estate mortgage, while the fee is \$3 for filing a notice of a lien on personal property.

The bill also would allow alternative methods to be established for billing Federal officials for documents they filed.

Senate Bill 602 (S-1) would amend the State Tax Lien Registration Act to do the following:

- Require the fee for filing a notice of a tax lien on real estate, or on tangible or intangible personal property, and the fee for other notices to be the same as the fee for recording a real estate mortgage.
- Allow alternative methods to be established for billing State collecting agencies for documents they filed.
- Allow a State collecting agency to recover recording fees from the person liable for the unpaid tax as additional costs.

Currently, the fee for filing a notice of a tax lien on real estate is the same as for recording a real estate mortgage, while the fee is \$1 to file a notice of a tax lien on personal property and for all other notices.

Senate Bill 603 (S-1) would amend the Michigan Employment Security Act to do the following:

- Require a person recording a lien or discharge of a lien under the Act to pay a fee equivalent to the fees for entering and recording a mortgage under Section 2567 of the RJA (instead of a \$2 fee).
- Allow the Unemployment Insurance Agency to recover the cost of a recording fee authorized under the Act, along with unpaid contributions or restitution of benefit overpayments.
- Specify that lien recording fees payable under the Act to the Agency from an entity that failed to pay them when due would be a first and prior lien upon all property and rights to real and personal property belonging to that entity.

Senate Bill 604 would amend Article 9 of the Uniform Commercial Code to specify that recording fees that otherwise would be applicable to the record of a mortgage under Section 2567 of the RJA would apply, which respect to a mortgage that is effective as a financing statement filed as a fixture filing or covering as-extracted collateral or timber to be cut.

Currently, the Act states that the recording fee that is applicable to the record of a mortgage applies (but does not refer to Section 2567 of the RJA).

Senate Bill 737 would amend the revenue Act to allow the State Treasurer, or his or her authorized representative, to recover recording or filing fees in the sale of property to satisfy a tax deficiency.

The Act allows the State Treasurer, or his or her authorized representative, to cause a demand to be made on a taxpayer for the payment of a tax, unpaid account, or amount due the State, or any of its departments or agencies. If the liability remains unpaid for 10 days after the demand, the State Treasurer may issue a warrant, and may levy on all property and rights to property belonging to the taxpayer or on which a lien is provided for the amount of the deficiency. The property may be sold for the payment of the amount due, the cost of executing the warrant, and additional penalties and interest. The bill also would allow recording or filing fees to be recovered.

Senate Bill 559 (S-4) is tie-barred to Senate Bills 600 to 604.

Senate Bills 599 (S-4), 600, 603 (S-1), and 604 would take effect 90 days after their enactment.

MCL 600.2567 (S.B. 599)
570.254 (S.B. 600)
211.666 (S.B. 601)
211.685 (S.B. 602)
421.15 (S.B. 603)
440.9525 (S.B. 604)
205.25 (S.B. 737)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bills 599 (S-4) through 604 would reduce costs for counties and increase revenue for counties, which would vary based on the volume and type of documents handled locally. The proposed change in Senate Bill 599 (S-4) to the fee structure for recording documents including mortgages from a fee based on the number of pages in a document to a flat fee would simplify transactions and reduce the number of documents rejected because an incorrect fee was submitted. The proposed flat fee of \$30 would increase revenue for counties that tend to record shorter documents. For counties that tend to record longer documents, the Michigan Association of Registers of Deeds has estimated that a flat fee of \$30 would prevent revenue declines for counties that tend to record longer documents with higher fees per document. The bill also would increase the fee for certifying a document from \$1 to \$5, which would increase county revenue. The bill would provide for the adjustment of certain fees every five years based on the cumulative change in the Consumer Price Index over the prior five years, or 5%, whichever was less, rounded up to the nearest \$5. The adjustment would begin the fifth year after the year in which the bill was effective. The amount of the fee adjustment would be determined by the State Treasurer. Assuming an annual inflation rate of 2.5% (the long-term average of the Detroit Consumer Price Index) and that the bill would be effective in 2016, it is estimated that each of the specified fees would be adjusted for the first time in 2021. Based on those assumptions and the adjustment language that would round the calculated amount of adjustment up to the nearest \$5, the fee for recording a document would increase from \$30 to \$35, the fee for certifying a document would increase from \$5 to \$10, and the fee for discharging an instrument would increase from \$3 to \$8 in 2021.

Senate Bill 599 (S-4) also could have an impact on the Department of Treasury and the Unemployment Insurance Agency (UIA). Both the Department and the Agency place liens on individuals and businesses for failure to pay taxes and dues on time, as well as remove liens, and are charged by the counties for this process. For FY 2014-15, the Department of Treasury issued and/or removed 73,000 liens and the Unemployment Insurance Agency issued and/or removed 113,595 liens. Currently, Treasury is charged \$10 and the UIA is charged \$2 per lien, which means that the proposed \$30 flat lien rate would amount to a combined \$5.6 million, or a \$4.6 million increase in costs between the two entities. Senate Bills 602 (S-1), 603 (S-1), and 737 would allow the Department of Treasury and the UIA to pass on the increased cost to the liable person.

Senate Bills 600 and 603 (S-1) also would apply the \$30 flat fee for recording an instrument to the filing of certain liens. Senate Bill 600 would apply the fee to labor and materials for oil and gas wells or pipelines under Public Act 146 of 1937. The fee for this type of lien currently is the same as that for recording a mortgage; thus, the change in the fee level would depend on the length of the document recorded. Senate Bill 603 (S-1) would increase the fee for filing a contractor's lien under the Michigan Employment Security Act from \$2 to \$30, which would increase county revenue.

In addition, the bills would have a negligible impact on the Department of State. According to the Department, it collects very few of the filing fees that would be affected by the bills. Thus, any increase in the fees would have a negligible but positive impact on the Department's

revenue. Also, the Department has indicated that the bills would have no financial impact on the costs spent to collect the fees.

Senate Bill 737 would likely result in additional revenue to the Department of Treasury with no fiscal impact on local government. By allowing recording or filing fees to be included in the total lien placed on delinquent accounts, the bill could generate increased revenue that would allow the Department to cover the recording and filing expenses of performing its duties under the Act.

Date Completed: 2-11-16

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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.