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BILL



ANALYSIS

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Senate Bill 599 through 604 (as introduced 11-4-15)
Sponsor: Senator Peter MacGregor (S.B. 599 and S.B. 600)
Senator Dale W. Zorn (S.B. 601 and S.B. 602)
Senator Darwin L. Booher (S.B. 603)
Senator Curtis Hertel, Jr. (S.B. 604)
Committee: Banking and Financial Institutions

Date Completed: 12-8-15

CONTENT

Senate Bill 599 would amend Section 2567 of the Revised Judicature Act to do the following:

- Require a fee of \$35 to be paid to the register of deeds for recording a document.
- For a document that assigned or discharged more than five interests, require an additional fee of \$5 per instrument assigned or discharged over five.
- Require, by April 1 of the 10th year after the year in which the bill would take effect, and then every 10 years, the State Treasurer to adjust the \$35 recording fee to reflect the percentage change in the Consumer Price Index.

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 is provided for recording a real estate mortgage under Section 2567 of the Revised Judicature Act.

Senate Bill 601 would amend the Uniform Federal Lien Registration Act to do the following:

- Require the fee for filing a notice of lien on real estate, or on tangible or 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 Federal officials for documents they filed.

Senate Bill 602 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 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.

Senate Bill 603 would amend the Michigan Employment Security Act to 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 Revised Judicature Act

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 Revised Judicature Act would apply.

Senate Bills 599, 600, 603, and 604 would take effect 90 days after their enactment. A more detailed description of Senate Bills 599 and Senate Bills 601 to 604 follows.

Senate Bill 599

Under Section 2567 of the Revised Judicature Act, except as otherwise provided, a register of deeds is entitled to certain fees, as indicated below.

For entering and recording a deed, mortgage, certified copy of an attachment, notice of pendency of a suit, or other instrument, the fee is \$8 for the first page, and \$3 for each additional page. Under the bill, instead, for entering and recording a document, the fee would be \$35, regardless of the number of pages. The fee would include the fee required to be collected under Section 2567a. (Section 2567a requires a county register of deeds to collect a fee for deposit into the Survey and Remonumentation Fund. Before January 1, 2023, the fee is \$4; beginning on that date, the fee will be \$2.) As currently required, the register of deeds would have to deposit \$5 of the total fee collected into the Automation Fund.

For any document that assigns or discharges more than one instrument, \$3 currently must be added to the recording fee for each additional instrument. Under the bill, for a document that assigned or discharged more than five instruments, in addition to the \$35 recording fee, the fee would be \$5 for each instrument assigned or discharged in excess of five.

The current fee for a seal to exemplification is \$1. Under the bill, instead, the fee to certify a recorded document would be \$5.

By April 1 of the 10th year after the year in which the bill took effect, and by April 1 of every 10th year after that, the bill would require the State Treasurer to adjust the \$35 recording fee or, for successive adjustments, the fee as previously adjusted, by an amount determined by the State Treasurer to reflect the cumulative percentage change in the Consumer Price Index for the preceding 10 calendar years, rounded up to the nearest \$5. An adjusted recording fee would apply to documents recorded after that April 1 until April 1 of the next adjustment. As used in the bill, "consumer price index" would mean the most comprehensive index of consumer prices for this State from the Bureau of Labor Statistics of the United States Department of Labor.

Senate Bill 601

Under the Uniform Federal Lien Registration Act, the fee for filing and indexing a notice of lien, certificate, or notice affecting the lien is as follows:

- For a lien on real estate, the same fee for recording a real estate mortgage.
- For a lien on tangible and intangible personal property, \$3.
- For all other notices, including a certificate of release or nonattachment, \$3.

Under the bill, the fee for filing and indexing any the above would be the same fee provided by law for recording a real estate mortgage. The fee for a certificate of discharge or subordination would continue to be the same as the fee for recording a discharge of a real estate mortgage.

The Act requires the filing officer to bill the district directors of internal revenue or other appropriate Federal officials on a monthly basis for fees for documents filed by those Federal officials. Under the bill, this would apply unless alternative payment methods were established.

Senate Bill 602

The State Tax Lien Registration Act establishes the fee for recording or filing and indexing a notice of lien or certificate or notice affecting a tax lien as follows:

- For a tax lien on real estate, the same fee for recording a real estate mortgage.
- For a tax lien on tangible and intangible personal property, \$1.
- For all other notices, including a certificate of release or nonattachment, \$1.

Under the bill, the fee for filing and indexing any of the above would be the same fee provided by law for recording a real estate mortgage. The fee for a certificate of discharge or subordination would continue to be the same as the fee for recording a discharge of a real estate mortgage.

A register of deeds must bill the State collecting agencies on a monthly basis for fees for documents filed by those agencies. Under the bill, this would apply unless alternative payment methods were established.

Senate Bill 603

Under the Michigan Employment Security Act, except as otherwise provided, all contributions, interest, and penalties payable under the Act to the Unemployment Insurance Agency (UIA) from an employer, claimant, employee of the UIA, or third party that neglects to pay when due, are a first and prior lien upon all property and rights to real and personal property belonging to those entities.

Notice of the lien must be recorded in the office of the register of deeds of the county in which the property subject to the lien is situated. A person recording such a lien, or a discharge of a lien, must pay a fee of \$2. Under the bill, a person recording a lien or discharge of a lien would have to pay a fee that was equivalent to the fees for entering and recording a mortgage as authorized under Section 2567 of the Revised Judicature Act.

Senate Bill 604

Under Part 5 (Filing) of Article 9 of the Uniform Commercial Code, and except as otherwise provided, the fee for filing and indexing a record is \$15. A fee is not required with respect to a record of a mortgage that is effective as a financing statement filed as a fixture filing or a financing statement covering as-extracted collateral or timber to be cut. However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

The bill specifies that the recording fees that would be applicable to the record of the mortgage under Section 2567 of the Revised Judicature Act would apply.

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

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bills 599, 600, and 603

The bills would have a positive effect on county revenue, which would vary by county. The proposed change in Senate Bill 599 in 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 numbers of documents rejected because an incorrect fee was submitted. The Michigan Association of Registers of Deeds indicates that the proposed flat fee of \$35 was determined to prevent revenue declines for counties that tend to record longer documents with higher fees per document. Counties that typically record shorter documents would receive an increase in revenue. The bill would provide for the adjustment of the fee every 10 years based on the cumulative change in the Consumer Price Index over the prior decade, rounded up to the nearest \$5. The amount of the fee adjustment would be determined by the State Treasurer. The bill also would increase the fee for certifying a document from \$1 to \$5, which would increase county revenue. The additional fee for recording a document that assigns or discharges more than one instrument would change from \$3 per instrument to \$5 for each additional instrument in excess of five, which would increase county revenue in most cases.

Senate Bill 599 could have a significant negative 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 \$35 flat lien rate would amount to a combined \$6.5 million, or a \$5.6 million increase in costs between the two entities.

Senate Bills 600 and 603 also would apply the \$35 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 would increase the fee for filing a contractor's lien under the Michigan Employment Security Act from \$2 to \$35 which would increase county revenue.

Senate Bills 601, 602, and 604

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.

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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.