



**Senate Fiscal Agency**  
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BILL ANALYSIS



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Senate Bills 599 through 604 (as enacted)

**PUBLIC ACTS 224-229 of 2016**

Senate Bill 737 (as enacted)

**PUBLIC ACT 230 of 2016**

House Bills 5164 and 5165 (as enacted)

**PUBLIC ACTS 231 & 232 of 2016**

Sponsor: Senator Peter MacGregor (S.B. 599, 600, & 737)

Senator Dale W. Zorn (S.B. 601 & 602)

Senator Darwin L. Booher (S.B. 603)

Senator Curtis Hertel, Jr. (S.B. 604)

Representative Lee Chatfield (H.B. 5164)

Representative Jeremy Moss (H.B. 5165)

Senate Committee: Banking and Financial Institutions

House Committee: Local Government

Date Completed: 5-1-17

**CONTENT**

**Senate Bill 599** amended 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 a fee for entering or recording a document or for recording a document that assigns or discharges an instrument to be paid when the document is left for recording unless certain conditions apply.
- Require a register of deeds, when her or she accepts a discharge of lien for recording under the Michigan Employment Security Act, to collect an amount equal to the fee paid for recording the discharged lien, as well as the \$30 recording fee for documents.
- Prohibit a register of deeds from charging the fee for recording the discharged lien if the discharge of lien is submitted by the Unemployment Insurance Agency (UIA).

**Senate Bill 600** amended 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 is 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** amended 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.

**Senate Bill 602** amended 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 file.**
- **Allow a State collecting agency to recover recording fees from the person liable for the unpaid tax as additional costs.**

**Senate Bill 603 amended 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).**
- **Specify that if the UIA does not record the discharge of lien with the register of deeds and seek reimbursement for the recording fee, it must provide the discharge of lien document and notice of lien recording fee to the debtor for him or her to record.**
- **Specify that in addition to any other remedy under the Act, the UIA may seek to recover unemployment compensation debt as provided under applicable Federal law.**

**Senate Bill 604 amended 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 apply, with 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.**

**Senate Bill 737 amended 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.**

**House Bill 5164 amended the Land Division Act to require a proprietor to deposit with a final plat a filing and recording fee equal to the fee for recording a real estate mortgage.**

**House Bill 5165 amended the Public Act 107 of 1985, which provides for recording certified copies of judgments in the offices of registers of deeds, to specify that a register of deeds is entitled to the same fee for recording a certified copy of a judgment as the fee for recording a real estate mortgage.**

Each of the bills took effect on October 1, 2016. All of the bills, except for Senate Bill 600, are described in more detail below.

### **Senate Bill 599**

Section 2567 of the Revised Judicature Act specifies that a register of deeds is entitled to certain fees, as indicated below.

Under the bill, for entering and recording a document, the fee is \$30, regardless of the number of pages. The fee includes 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.) Formerly, for entering and recording a deed, mortgage, certified copy of an

attachment, notice of pendency of a suit, or other instrument, the fee was \$8 for the first page, and \$3 for each additional page.

Under the bill, the fee to certify a recorded document is \$5. Formerly, the fee for a seal to exemplification was \$1

The bill also requires any of the fees for entering or recording a document or for recording a document that assigns or discharges an instrument to be paid when the document is left for recording unless one of the following applies: a) the document is an electronic document, the register of deeds accepts electronic documents for recording, and the fee is paid electronically within one business day after the document is received; b) the document is left for recording by a governmental entity under an agreement between it and the register of deeds that includes a payment schedule for the fee; c) the document is a forfeiture certificate or redemption certificate under the General Property Tax Act, and the fee is paid within 30 days after redemption of the tax delinquent property or by an alternative date under an agreement between the register of deeds and the foreclosing governmental unit; or d) the document is a notice of judgment of foreclosure, or a deed, under the General Property Tax Act, and the fee is paid within 30 days after the sale or transfer of the property or by an alternative date under an agreement between the register of deeds and the foreclosing governmental unit.

In addition to the recording fee, when a register of deeds accepts a discharge of lien to be recorded under Section 15 of the Michigan Employment Security Act (the section amended by Senate Bill 603), the bill requires the register of deeds to collect an amount equal to the fee paid for recording the discharged lien as stated on the notice of lien recording fee provided under that section. The register of deeds must transmit to the UIA the additional amounts collected under this provision, and any information requested by UIA that is contained in the notice of lien recording fee. A register of deeds must send the money and information on the following schedule: a) if the register of deeds serves a county with a population of less than 750,000, quarterly; or b) if the register of deeds serves a county with a population of 750,000 or more, monthly.

The bill provides that, unless the discharge of lien is submitted to be recorded by the UIA, a register of deeds may not accept a discharge of lien for recording that is not accompanied by a notice of lien recording fee.

Also, under the bill, a register of deeds may not charge the amount equal to the fee paid for recording the discharged lien if the discharge of lien is submitted for recording by the UIA.

### **Senate Bill 601**

Previously, under the Uniform Federal Lien Registration Act, the fee for filing and indexing a notice of lien, certificate, or notice affecting the lien was 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 is the same fee provided by law for recording 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 applies unless alternative payment methods are established.

### **Senate Bill 602**

The State Tax Lien Registration Act prescribes fees for recording or filing and indexing a notice of lien or certificate or notice affecting the tax lien. Formerly, the fee for filing a notice of a tax lien on real estate was the same as for recording a real estate mortgage, while the fee was \$1 to file a notice of a tax lien on personal property and for all other notices, including a certificate of release or nonattachment. Under the bill, all the fees for filing a notice of a tax lien on real estate, or on tangible or intangible personal property, and the fee for other notices are the same as the fee for recording 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 applies unless alternative payment methods are established.

The bill also allows a State collecting agency to recover recording fees from the person liable for the unpaid tax as additional costs.

### **Senate Bill 603**

Under Section 15 of the Michigan Employment Security Act, except as otherwise provided, all contributions, interest, and penalties payable under the Act to the 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. Under the bill, a person recording a lien or discharge of a lien must pay a fee that is equivalent to the fees for entering and recording a mortgage as authorized under Section 2567 of the Revised Judicature Act. Formerly, the fee was \$2.

Under the bill, if the UIA does not record a discharge of lien with the register of deeds and seek reimbursement for the recording fee, it must provide the discharge of lien document and a notice of lien recording fee to the debtor who then must record the discharge and pay the applicable recording fee. The notice of lien recording fee must state the amount of the recording fee that the UIA paid to record the lien that is the subject of the discharge and may include other relevant information. In addition to any other remedy provided under the Act, the UIA may seek to recover unemployment compensation debt as provided under 26 USC 6402(f), 42 USC 503(m), or other applicable Federal law. The debtor is liable for any fee the Federal government imposes with respect to implementing the deduction from a Federal tax refund.

(Under 26 USC 6402(f), upon receiving notice from a state that a named person owes unemployment compensation debt to that state, the United States Secretary of Treasury must reduce the amount of any tax refund payable to the person by the amount of the debt, pay the amount the refund was reduced to the state and notify the state of the amount collected, and notify the person that his or her refund was reduced to satisfy an employment compensation debt. Under 42 USC 503(m), if covered unemployment debt remains uncollected within one year after the debt was determined to be due, the state to which the debt is owed must take the action described in 26 USC 6402(f) to recover the debt.)

### **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 fees that otherwise would be applicable to the record of the mortgage under Section 2567 of the Revised Judicature Act apply.

Formerly, the Act stated that the recording fee that was applicable to the record of a mortgage applied (but did not refer to Section 2567 of the RJA).

### **Senate Bill 737**

The revenue 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 allows recording or filing fees to be recovered.

### **House Bill 5164**

The Land Division Act governs the layout, division, and use of land. The Act requires a proprietor (an individual or entity that holds an ownership interest in land) to submit copies of a final plat to various agencies and officers, including the clerk of a municipal governing body, for review and approval. Under the bill, when a final plat is submitted to the clerk, the proprietor must deposit with the plat both of the following: a) a filing and recording fee in an amount equal to the fee for entering and recording a real estate mortgage under Section 2567 of the RJA, and b) a State plat review fee of \$150, plus \$15 for each lot over four lots included in the plat. Formerly, the filing and recording fee was \$20.

(Upon approval of the plat by the governing body, the clerk must send both fees with the plat to the clerk of the county plat board, who must deposit the filing and recording fee in the country trust and agency fund for subsequent payment to the county register of deeds.)

### **House Bill 5165**

Public Act 107 of 1895 allows a certified copy of a judgment or decree that pertains to the disposition of land to be recorded in the office of the register of deeds of the county (or counties) in which the land described in the judgment or decree is situated.

Under the bill, the register of deeds is entitled to the same fee for recording a certified copy of a judgment or decree as the fee for recording a real estate mortgage under Section 2567 of the Revised Judicature Act. Previously, the register of deeds was entitled to the same fee for recording the certified copy of the judgment as he or she could receive for recording conveyances. As previously provided, however, in a county where the register of deeds receives an annual salary, the fees must be turned over to the county treasurer.

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

440.9525 (S.B. 604)  
560.241 (H.B. 5164)  
565.412 (H.B. 5165)

### **FISCAL IMPACT**

The bills will reduce costs for counties and increase revenue for counties, which will vary based on the volume and type of documents handled locally. The change in Senate Bill 599 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 will simplify transactions and reduce the number of documents rejected because an incorrect fee is submitted. The flat fee of \$30 will increase revenue for counties that tend to record shorter documents. The Michigan Association of Registers of Deeds estimated that a flat fee of \$30 will prevent revenue declines for counties that tend to record longer documents with higher fees per document. The bill also will increase the fee for certifying a document from \$1 to \$5, which will increase county revenue.

Senate Bill 599 also may 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 owed to any other department or agency 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. Previously, Treasury was charged \$10 and the UIA was charged \$2 per lien, which meant that the new \$30 flat lien rate will amount to a combined \$5.6 million, or a \$4.6 million increase in costs between the two entities. Senate Bills 602, 603, and 737 allow the Department of Treasury and the UIA to pass on the increased cost to the liable person or department.

Senate Bills 600 and 603 also apply the \$30 flat fee for recording an instrument to the filing of certain liens. Senate Bill 600 applies 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 previously was the same as that for recording a mortgage; thus, the change in the fee level will depend on the length of the document recorded. Senate Bill 603 increases the fee for filing a contractor's lien under the Michigan Employment Security Act from \$2 to \$30, which will increase county revenue.

In addition, the bills will have a negligible impact on the Department of State. According to the Department, it collects very few of the filing fees that are affected by the bills. Thus, any increase in the fees will have a negligible but positive impact on the Department's revenue. Also, the Department indicated that the bills will have no financial impact on the costs spent to collect the fees.

### **Senate Bill 737**

The bill likely will 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 may generate increased revenue that will allow the Department to cover the recording and filing expenses of performing its duties under the Act.

### **House Bill 5164**

The bill will increase local revenue from fees received for filing a final plat. Previously, the fee for filing a final plat was \$20. Under the bill, the fee will be the same as the fee charged for

recording a mortgage under the Revised Judicature Act. The increased revenue from the fee for filing a final plat will support the costs of county register of deeds.

### **House Bill 5165**

The bill will change local revenue for recording a land transfer determined by a court judgment. Previously, the fee for recording that type of land transfer was the same as for other conveyances, which is based on the number of the pages filed. The bill specifies that the fee is the same as for recording a mortgage. The change in revenue will vary by county based on the length of documents filed.

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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.