



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 731 and 732 (as introduced 12-13-17)
Senate Bill 733 (Substitute S-1)
Senate Bills 734 and 735 (as introduced 12-13-17)
Senate Bill 736 (Substitute S-1)
Senate Bills 737 through 740 (as introduced 12-13-17)
Sponsor: Senator Dale W. Zorn (S.B. 731, 732, & 733)
 Senator Ian Conyers (S.B. 734)
 Senator David Knezek (S.B. 735)
 Senator Curtis Hertel, Jr. (S.B. 736 & 737)
 Senator John Proos (S.B. 738, 739, & 740)
Committee: Local Government

Date Completed: 1-29-18

CONTENT

Senate Bill 731 would amend Public Act 55 of 1956, which authorizes the jeopardy assessment of personal property taxes, to require jeopardy tax assessment affidavits to be recorded, instead of filed, with the register of deeds.

Senate Bill 732 would amend Public Act 236 of 1929, which provides for the recording of waivers of priority of mortgages, to specify that the register of deeds would be entitled to a particular fee for recording a real estate mortgage.

Senate Bill 733 (S-1) would amend Public Act 132 of 1970, which provides for the filing of surveys in the office of the register of deeds, to do the following:

- Require a survey to be recorded in the office of the register of deeds if land were surveyed into parcels under Sections 108 through 109b of the Land Division Act; and delete provisions under which a survey may be recorded if land is surveyed into a certain number of parcels.
- Require the professional surveyor who prepared a survey to record a certified copy of it.
- Require a certified copy of a survey to be filed for recording within 90 days after it was delivered to the client, if the survey were made for the purpose of describing a parcel in a conveyance of title or as created in a lease for a year or more.
- Revise the requirements that a survey map must meet with respect to established corners.
- Require a register of deeds to keep a separate card file or an electronic file of the county land records system; and delete current requirements for a separate card file.

Senate Bill 734 would amend Public Act 133 of 1991, which allows the use and recording of certain documents regarding trusts in the case of conveyed real

property, to require a trust agreement to be recorded as a separate document if the agreement accompanied an instrument.

Senate Bill 735 would amend Chapter 65 of the Revised Statutes of 1846, which governs the conveyance of real property, to require a death certificate to be filed concurrently with the deed or other instrument that purported to convey an interest in land by the survivor or survivors.

Senate Bill 736 (S-1) would amend Public Act 103 of 1937, which prescribes conditions related to the execution of instruments to be recorded in the office of the register of deeds, to delete exemptions from the Act for wills and instruments executed or acknowledged outside of Michigan.

Senate Bill 737 would amend Public Act 103 of 1937 to prohibit a register of deeds from receiving or recording certain instruments executed after October 29, 1937, if the instrument or any part of it were in a language other than English and a written English translation were not attached.

Senate Bill 738 would amend Public Act 19 of 1917, which authorizes the Department of Natural Resources to issue certificates of correction concerning a deed that was recorded erroneously, to state that the register of deeds would be entitled to a particular fee for recording a certificate of correction.

Senate Bills 739 and 740 would repeal sections of the Fourth Class City Act and Public Act 185 of 1957 (which provides for county departments and boards of public works), respectively, that provide for prima facie evidence of ownership of property taken by condemnation when a register of deeds testifies.

Senate Bills 731, 732, 733 (S-1), 738, 739, and 740 would take effect 90 days after their enactment.

Senate Bill 731

Public Act 55 of 1956 authorizes the treasurer of a township, city, or village to accelerate the date on which any personal property tax collectible by the treasurer is due, and states that proceedings under the Act are known as the jeopardy assessment of personal property taxes. Before the due date of a tax to be accelerated, the treasurer must make a jeopardy tax assessment affidavit stating that the taxpayer owned certain personal property on the tax day, that the property was situated within the treasurer's tax collection district on the tax day, the assessed value of the property, the amount of the jeopardy rate and the tax due, the name of the taxing unit or units on whose behalf the jeopardy assessment is made, and other information.

The treasurer then must file the affidavit or a true copy of it with the register of deeds of the county in which the property was located on the tax day, in the same manner as provided by law in the case of chattel mortgages.

Under the bill, instead, the affidavit or a true copy of it would have to be recorded in the same manner as provided by law for the filing and recording of financing statements with registers of deeds under Part 5 of Article 9 of the Uniform Commercial Code.

(Part 5 of Article 9 governs the filing of financing statements, and designates where a financing statement must be filed.)

Senate Bill 732

Under Public Act 236 of 1929, the holder of a mortgage of property located in the State that is the mortgagee named in the mortgage or a person to whom the mortgage has been properly assigned may waive the priority of the mortgage in favor of another lien or mortgage by executing a separate instrument acknowledged in the same manner as required for deeds and other instruments for the transfer of an interest in real estate. Recording of the waiver is constructive notice of the waiver to all people dealing with the mortgage or with property described in the mortgage from the date the waiver is recorded. A waiver must be recorded in the same manner as provided for the recording of discharges of mortgages, and the register of deeds is entitled to the same fee as is charged for assignments and discharges of mortgages. Under the bill, the register of deeds would be entitled to the same fee as charged for recording a real estate mortgage under Section 2567 of the Revised Judicature Act.

(Section 2567 entitles a register of deeds to the following fees:

- For entering and recording a document, regardless of the number of pages, \$30.
- For a document that assigns or discharges more than one instrument, in addition to the fee above, \$3 for each additional instrument assigned or discharged.
- For copies of any records or papers, if required, \$1 per page.
- To certify a recorded document, \$5.
- For searching the records and files, on request, by the office of the register of deeds, \$0.50 for each year for which grantor/grantee searches are made, with a minimum fee of \$5, except that the fee for tract index searches must be based on the cost of establishing and maintaining a tract index.
- For filing every other paper, and making an entry of it, if necessary, \$1, unless otherwise specifically provided for.
- For searching for every other paper, on request, by the office of the register of deeds, \$1 for each paper examined.)

Senate Bill 733 (S-1)

Recording Requirements

Under Public Act 132 of 1970, whenever land is surveyed into four parcels or less, or a greater number when the parcels are 10 acres or more, or any boundary survey where permanent corners are monumented, a certified copy may be recorded in the office of the register of deeds in the county where the land is situated, if the survey meets the requirements of the Act. Under the bill, instead, if land were surveyed into parcels under Sections 108 through 109b of the Land Division Act, or any boundary survey where permanent corners were monumented, the professional land surveyor who prepared the survey would have to record a certified copy in the office of the register of deeds in the county in which the land was situated.

(Sections 108 through 109b prescribe requirements for dividing, approving, or disapproving divisions and parcels of land, among other things.)

Under Public Act 132 of 1970, if a survey is made for the purpose of describing the parcel in a conveyance of title, a certified copy of that survey must be recorded at the time of recording the conveyance of title with the register of deeds in the county where the land is situated. Under the bill, if a survey were made for the purpose of describing a parcel in a conveyance of title or describing a parcel as created in a lease for a year or more, a certified copy of that survey would have to be filed for recording with the register of deeds in the county in which the land was situated within 90 days after the survey was delivered to the professional land

surveyor's client. In addition, the bill would delete a current provision that surveys solely for mortgage certificate purposes need not be recorded.

Survey Map Requirements

The Act requires a survey map to meet certain criteria, including a requirement that the survey include the exterior boundaries of the land surveyed and divided, together with the line or lines leading to the United States Public Land Survey corner, or corners, from which the land is described. Under the bill, this requirement would apply for land not included in a platted subdivision or condominium.

The Act also requires a survey map to meet the following conditions, among others, if the boundary of the parcel follows or parallels a section line:

- The section line must be defined at its extremities by corners established in the United States Public Land Survey or reestablished under accepted methods.
- Each corner of the United States Public Land Survey must be duly witnessed to a permanent object.

The bill, instead, would require a survey map to meet the following:

- The section line would have to be defined at its extremities by corners established in the United States Public Land Survey or reestablished under accepted methods or protracted corners monumented under the State Survey and Remonumentation Act.
- Each corner of the United States Public Land Survey would have to be duly witnessed under the Corner Recordation Act.

(The State Survey and Remonumentation Act creates the State Survey and Remonumentation Commission in the Department of Licensing and Regulatory Affairs, and governs the monumentation and remonumentation of property controlling corners in the State, among other things.

The Corner Recordation Act requires the establishment of monuments and the recording of information concerning original and protracted public land survey corners.)

Recording & Filing System

Public Act 132 of 1970 requires the register of deeds to accept certified survey maps prepared under the Act upon payment of the regular fee as provided in Section 2567 of the Revised Judicature Act. The register of deeds must consecutively number the maps and record them in bound volumes or in a manner adapted to a system of preserving records under the Records Reproduction Act. The maps must be titled in a certain manner, and must become a part of the land records of the county.

A separate card file must be kept showing by section, township, and range and by title of recorded plat if a resurvey within the plat, the designating number, liber, and page of the certified maps filed in the bound volume, or other record. If a certified survey map is recorded under Public Act 132 of 1970, the parcels of land in the map may be described with a supplemental reference to the number of the survey, the volume and page where recorded, and the name of the county, for all purposes, including assessment, taxation, devise, descent, and conveyance. The bill would delete these provisions.

Instead, the bill would require the register of deeds to keep a separate card or electronic file of the county land records system. The file would have to be indexed within the land records system, and would have to specify the unique identifying number or liber and page of the

recorded surveys in the bound volume or other record. The specification would have to be by section, township, and range and, if the map were a resurvey within the plat, by title of the recorded plat.

Senate Bill 734

Public Act 133 of 1991 specifies that an instrument conveying, encumbering, or otherwise affecting an interest in real property, executed under an express trust, may be accompanied either by a copy of the trust agreement or by a certificate of trust existence and authority. A trust agreement or certificate of trust existence and authority that accompanies an instrument, and any amendments to those documents, may be recorded in the office of the register of deeds of each county where the land that is the subject of or affected by the trust agreement is located.

Under the bill, if a trust agreement accompanied an instrument, the trust agreement would have to be recorded as a separate document.

Senate Bill 735

Chapter 65 of the Revised Statutes of 1846 prohibits a register of deeds from recording a deed or other written instrument that purports to convey an interest in land by the survivor or survivors under a deed to joint tenants or tenants by the entirety, unless, for each joint tenant or tenant by the entirety whom the deed or instrument indicates is deceased, a certified copy of the death certificate or other proof of death that is permitted by the laws of the State to be received for record by the register, is shown to have been recorded in the register's office by liber and page reference or accompanies the deed for record. Under the bill, instead of accompanying the deed, the death certificate or other proof of death would have to be filed concurrently with the deed or other instrument and recorded as a separate document.

Senate Bill 736 (S-1)

Public Act 103 of 1937 prescribes conditions for the completion of documents to be recorded with the register of deeds. The Act does not apply to any of the following instruments:

- A decree, order, judgment, or writ of a court.
- A will.
- A death certificate or a certified copy of a death certificate.
- An instrument executed or acknowledged outside of Michigan.

The bill would delete reference to a will and an instrument executed or acknowledged outside of Michigan.

Senate Bill 737

Public Act 103 of 1937 prohibits a register of deeds from receiving or recording an instrument executed after October 29, 1937, by which the title to or any interest in real estate is conveyed, assigned, encumbered, or otherwise disposed of unless the instrument complies with certain criteria, including the following:

- The name of each person purporting to execute the instrument is legibly printed, typewritten, or stamped beneath the original signature or mark of the person.
- The name of any notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped on the instrument immediately beneath the signature of the notary public.

The bill would require the original signature of each person purporting to execute the instrument to be in black or dark blue ink, and would require the name of any notary public whose signature appeared on the instrument to be on the same page near the signature of the notary public, instead of immediately beneath the signature.

The bill also would prohibit a register of deeds from receiving or recording an instrument described above if the instrument, or any part of it, were in a language other than English, unless a written English translation was attached to the instrument.

Senate Bill 738

Under Public Act 19 of 1917, if the Department of Natural Resources has executed and issued a deed that purports to convey title to land in which the State held no interest, the deed has been recorded in the office of the register of deeds for the county where the land is located, and, in an attempt to correct the erroneous sale and transfer, a deed has been executed to the State by the grantee of the original deed, the Department must record the corrective deed in the office of the register of deeds. At the same time, the Department must issue a certificate stating that the State has and claims no title in or to the land described in the corrective deed and that the certificate is issued to remove any cloud on the title to the land that may have been caused by the original deed or by the corrective deed. The register of deeds must record the certificate of correction.

The bill specifies that the register of deeds would be entitled to the same fee as charged for recording a real estate mortgage under Section 2567 of the Revised Judicature Act.

Senate Bills 739 and 740

Article XXV of the Fourth Class City Act and Public Act 185 of 1957 allow private property to be taken, or condemned, for various public purposes. Under Section 27 of Article XXV and Section 55 of Public Act 185, it is prima facie evidence of who owns and who has an interest in any property proposed to be taken under the Act, if the register or deputy register of deeds of the county testifies in open court that he or she has examined the records or titles in his or her office, and states who the records show are the owners of and people interested in the property, and the nature and extent of the ownership and interest. An abstract of the title of the property or any parcel of it certified by the register of deeds or deputy register of deeds also is prima facie evidence of ownership and people having an interest in the property and the extent and nature of the interest.

(Prima facie evidence is evidence sufficient to establish a given fact or raise a presumption unless disproved or rebutted.)

Senate Bill 739 would repeal Section 27 of Article XXV of the Fourth Class City Act and Senate Bill 740 would repeal Section 55 of Public Act 185 of 1957.

MCL 211.693 & 211.694 (S.B. 731)

565.391 (S.B. 732)

54.211 & 54.213 (S.B. 733)

565.434 (S.B. 734)

565.48 (S.B. 735)

565.203 (S.B. 736)

565.201 (S.B. 737)

322.381 (S.B. 738)

105.27 (S.B. 739)

123.785 (S.B. 740)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

Senate Bills 733 (S-1), 734, 735, and 736 (S-1) would have no fiscal impact on the State and could have a negative fiscal impact on local government. Under the bills, certain documents that currently are either exempt or allowed to be attached to another recorded document, would have to be recorded with the register of deeds. The register of deeds in any given county could experience higher administrative costs, the amount of which would depend on the number of additional documents recorded.

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

Fiscal Analyst: Ryan Bergan

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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.