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REGISTER OF DEEDS COPYING

House Bill 4193 as enrolled
Public Act 51 of 1994
Second Analysis (1-23-95)

Sponsor: Rep. James M. Middaugh
House Committee: Local Government
Senate Committee: Local Government and
Urban Development

THE APPARENT PROBLEM:

County registers of deeds are frequently asked to respond to title companies' requests for information on specific parcels of real estate, and such requests have been on the rise, no doubt due at least in part to increased numbers of mortgage refinancings. While some counties have been able to accommodate the increased burden with little trouble, many have experienced problems with additional demands on copying equipment and staff time, with increased traffic in the office, or with the tying up of public records. Some counties provide microfilm copies, others hard copies, and some provide both; fees vary. It is not unusual for a register of deeds to have a special arrangement of some sort with a title or abstract company; arrangements can address hours of use or billing, but can go further: at least one county, for example, is reported to have an agreement with an abstract company that provides its own microfilm equipment.

A Tuscola County register of deeds had a similar arrangement with a local title company through which the title company provided a copying machine at the register's office, allowed the register of deeds to use the machine, and received copies of records without charge. According to county officials, when a successor register of deeds attempted to impose restrictions on the use of the copier along with a fee for allowing the title company to maintain its copier on the premises, the title company brought suit. The circuit court found in favor of the title company and ordered the register of deeds to allow the copier on the premises in exchange for a monthly rent determined by the court.

Registers of deeds argue that such arrangements can be contrary to the best interests of the public, at least where the rising volume of copying threatens the register's ability to serve all of the

members of the public. If one title company is allowed to have a copier on the premises, then others might demand the privilege; if title companies are given special arrangements, then other frequent users such as attorneys, real estate companies, and oil and gas companies may seek them. Another concern is the safety of the documents themselves; if an individual is allowed to remove documents and copy them in another area or room of the office, items may be lost or misplaced.

Registers of deeds seek amendments to statute to clearly state what they may do with regard to providing copies of documents.

THE CONTENT OF THE BILL:

The bill would amend Public Act 54 of 1875, which deals with registers of deeds, to specify three options for a register of deeds responding to an individual's request for a reproduction of a record or file. The register of deeds would do one of the following:

** reproduce the record or file for the individual according to the Records Media Act, Public Act 116 of 1992, using a medium selected by the register of deeds.

** provide equipment for the individual to reproduce the record or file according to the Records Media Act, using a medium selected by the register of deeds.

** authorize the individual to reproduce the record or file using equipment provided by that individual.

A reproduction fee could not exceed reasonable costs, unless a different fee was provided by law.

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The bill also would delete language that allows the register of deeds to prohibit the use of pen and ink in making reproductions, and requires the register of deeds to permit reproduction under the Records Media Act.

MCL 565.551

FISCAL IMPLICATIONS:

The House Fiscal Agency has said that the bill would have no fiscal implications for the state. (3-16-93)

ARGUMENTS:

For:

The bill would clarify the law with regard to copying records under the charge of the register of deeds. By clearly explaining the various options at the register's disposal, the bill should remedy the situation in Tuscola County where a private abstract company seeks to continue to be able to maintain its own copy machine in the register of deeds offices. The bill would prevent such arrangements from continuing over the objections of the register of deeds, and thus bolster efforts to ensure the equitable and efficient use of register resources. The various options encompass existing practices across the state and grant individual registers of deeds the flexibility to manage local offices to accommodate local needs.

Against:

The bill is unnecessary. Appellate decisions and an attorney general's opinion already give registers of deeds the right to permit or prohibit reproducing machines on register premises. Further, most counties have no problems with the existing system; registers of deeds' offices and title companies generally have amicable working relationships. The bill would insert itself into a local dispute that may be best left to the judicial system to resolve.