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RECORDING LIENS ON PROPERTY

House Bill 5864

Sponsor: Rep. Agnes Dobronski

Committee: Local Government

Complete to 5-15-98

A SUMMARY OF HOUSE BILL 5864 AS INTRODUCED 5-14-98

Public Act 526 of 1996 amended Chapter 65 of the Revised Statutes of 1846 to, among other things, revise the procedures for the recording of liens and similar instruments on property, and related legislation established penalties against those who encumber property through the recording of a document without lawful cause and with the intent to harass or intimidate. Public Act 526 provides that the recording of a levy, attachment, lien, lis pendens, sheriff's certificate, marshal's certificate, or other instrument of encumbrance "does not perfect the instrument of encumbrance" unless a court of competent jurisdiction finds that the instrument was accompanied by both 1) a full and fair accounting of the facts that support recording of the instrument of encumbrance and supporting documentation, as available; and 2) proof of service that actual notice has been given to the recorded landowner of the land to which the instrument of encumbrance applies. (The provision does not apply to a number of instruments, including certain tax liens, encumbrances authorized by courts, and filings by commercial lending institutions.)

House Bill 5864 would amend the recently enacted provisions to specify instead that the register of deeds could not receive for recording the various instruments cited above on real or personal property unless the person presenting it presented both a complete legal description of the property upon which the lien was being filed and the proof of service cited above. (The provision regarding "a full and fair accounting of the facts" would be deleted.)

MCL 565.25

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.