

Legislative Analysis



RECORDING OF LEGAL DOCUMENTS WITH REGISTERS OF DEEDS

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Senate Bills 731 (H-1), 732, and 733 (S-1) as reported from House committee
Sponsor: Sen. Dale W. Zorn

Senate Bill 734 (H-1) as reported
Sponsor: Sen. Ian Conyers

Senate Bill 735 (H-1) as reported
Sponsor: Sen. David Knezek

House Committee: Local Government
Senate Committee: Local Government
Complete to 5-16-18

Senate Bills 736 (H-1) and 737 (H-1) as reported
Sponsor: Sen. Curtis Hertel, Jr.

Senate Bills 738, 739, and 740 as reported
Sponsor: Sen. John Proos

(Enacted as Public Acts 191 to 200 of 2018)

BRIEF SUMMARY: According to testimony before the House and Senate Local Government committees, Senate Bills 731 to 740 are intended to modernize language and remove obsolete sections of statute regarding registers of deeds. They are intended to codify current practices such as scanning documents into digital files rather than hand-filing them.

FISCAL IMPACT: As written, the bills would have no effect on state revenues or expenditures. Senate Bills 733 through 736 might impose administrative costs on the register of deeds within a county, although filing fees might also be adjusted to offset the additional costs. Therefore, the net overall impact cannot be determined. The remaining bills would not affect local revenues or expenditures.

THE CONTENT OF THE BILLS:

Senate Bill 731 would amend Public Act 55 of 1956, which concerns jeopardy assessments of personal property taxes. It would require that a treasurer record (rather than file) an affidavit no later than the next business day after that affidavit is sworn or affirmed. (MCL 211.693 and 211.694)

Senate Bill 732 would amend Public Act 236 of 1929 to state that, when recording waiver of priority of mortgage, the register of deeds would be entitled to the same fee as that provided for recording a real estate mortgage. (MCL 565.391)

Senate Bill 733 would amend Public Act 132 of 1970, which provides for the filing of surveys related to land divisions. It would change references to “land surveyors/surveying” to “professional surveyors/surveying,” and specify the acts and requirements to be followed when recording plats of land. The bill would require a certified copy of a survey to be filed for recording within 90 days after delivery to the surveyor’s client, if the survey

was made for the purposes of describing the parcel in a conveyance of title or as created in a lease for a year or more. Finally, it would replace the requirement that a separate card file of the survey maps be kept with a requirement that a separate card file or electronic file of the county land record system be kept. (MCL 54.213)

Senate Bill 734 would amend Public Act 133 of 1991 to require that a trust agreement that accompanies an instrument that affects an interest in real property be recorded as a separate document. (MCL 565.434)

Senate Bill 735 would amend chapter 65 of the Revised Statutes of 1846, which governs the conveyance of real property. It would require that a death certificate or other qualifying proof of death be filed concurrently with a deed or other instrument that purports to convey an interest in land by the survivor or survivors, and that the proof of death be recorded as a separate document. Now, the proof of death must “accompany” the deed. (MCL 565.48)

Senate Bills 736 and 737 would amend Public Act 103 of 1937, regarding instruments to be recorded by the register of deeds. SB 736 would require that wills and instruments executed or acknowledged outside of Michigan be subject to certain recording requirements. SB 737 would require that, if a recorded instrument were not written in English, an English translation of the instrument be attached. (MCL 565.203; MCL 565.201)

Senate Bill 738 would amend Public Act 19 of 1917 to provide that a register of deeds would be entitled to a certain fee when recording a certificate of correction issued by the Department of Natural Resources (DNR). It would also replace references to the Public Domain Commission with references to the DNR. (MCL 322.381)

Senate Bills 739 and 740 would repeal sections of the Fourth Class City Act and Public Act 185 of 1957, respectively. Both state that, in proceedings over the ownership of property, testimony from a register of deeds as to who holds title would be prima facie evidence of ownership. (According to Senate testimony, title companies are best suited to testify about the status of a title; registers of deeds are only qualified to testify as to what is on file.) (MCL 105.27; MCL 123.785)

HOUSE COMMITTEE ACTION:

The House Local Government committee adopted substitutes for five of the bills. Enacting language was added to Senate Bills 734, 735, 736, and 737 in H-1 substitutes so that they would take effect 90 days after enactment. Additionally, SB 736’s H-1 substitute makes a technical change to correct a citation. Finally, SB 737’s H-1 substitute would move a requirement that is currently in Section 1a of Public Act 103 of 1937 (that an instrument received by a register of deeds that was executed after January 1, 1964 must include the name and business address of the person who drafted the instrument) to Section 1, and repeal Section 1a.

BRIEF DISCUSSION:

In response to a question as to how a local unit could provide a translation of documents in foreign languages, given the cost and the sheer number of potential languages, the bill sponsor responded that the burden of securing a translation for the file is on the person filing the document, not the local unit.

POSITIONS:

A representative of the Michigan Association of Registers of Deeds testified in support of the bill package. (4-25-18)

A representative of the Livingston Register of Deeds testified in support of the bill package. (4-25-18)

The Michigan Bankers Association supports Senate Bills 731 through 738. (4-25-18)

The Michigan Society of Professional Surveyors supports Senate Bill 733. (5-2-18)

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