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BILL ANALYSIS

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Senate Bills 929, 930, and 931 (as enrolled)  
Sponsor: Senator Bev Hammerstrom  
Senate Committee: Local, Urban and State Affairs  
House Committee: Local Government and Urban Policy

**PUBLIC ACTS 538-540 of 2004**

Date Completed: 3-8-05

**CONTENT**

**Senate Bills 929, 930, and 931 amend the Revised Judicature Act, the Michigan Estate Tax Act, and the State Housing Development Authority Act, respectively, to do the following in regard to the redemption of property:**

- **Prohibit a register of deeds from determining the amount necessary for redemption.**
- **Require the purchaser to attach to the deed an affidavit stating the exact amount required for redemption.**

**Senate Bill 929 also retains a requirement that a register of deeds deposit a portion of a recording fee into the county's automation fund; and increases a fee charged for the care and custody of redemption money that is paid to the register of deeds.**

**In addition, under Senate Bills 929 and 931, fees and charges collected by a register of deeds when property is redeemed must be deposited into the county's automation fund.**

The bills will take effect on March 30, 2005.

Redemption Affidavit

Chapter 31 of the Revised Judicature Act (RJA) authorizes the circuit court to foreclose mortgages and land contracts, and Chapter 32 provides for the foreclosure of mortgages by advertisement. Under these chapters, a mortgagor or land contract vendee, his or her heirs, executors, or

administrators, or a person lawfully claiming from or under any of them, may redeem the premises sold at a foreclosure sale. Chapter 60 governs the enforcement of judgments and provides for the sale of property on execution. The property may be redeemed by the person against whom the execution of judgment is issued or various other parties identified in the Act.

Under the Estate Tax Act, the circuit court may order the sale of property for the nonpayment of inheritance taxes. The deed is void, however, if the property is redeemed by the person owning the property or an interest in it, the person's heirs, executors, or administrators, or a person lawfully claiming from or under the person.

The State Housing Development Authority Act authorizes the circuit court to foreclose mortgages and land contracts held by the Michigan State Housing Development Authority. The Act also permits the Authority to foreclose by advertisement. A mortgagor or land contract vendee, his or her heirs, executors, or administrators, or a person claiming from or under the mortgagor or vendee, may redeem the property.

Under these statutes, a person redeeming foreclosed property must pay the amount bid for the property, plus interest, to the purchaser, the purchaser's heirs, executors, or administrators, or the register of deeds in whose office the deed is recorded, for the benefit of the purchaser. (Under the Estate Tax Act, the payment must be made to the register of deeds.)

The bills prohibit the register of deeds from determining the amount necessary for redemption. The bills require the purchaser to attach an affidavit with the deed to be recorded, stating the exact amount required to redeem the property, including any per diem amounts. The date by which the property has to be redeemed must be stated on the certificate of sale, the certificate of the auctioneer, or the certificate of the State Treasurer or other person making the sale, as applicable.

The purchaser may include in the affidavit the name of a designee responsible on behalf of the purchaser to assist the person redeeming the property in computing the exact amount required for redemption. The designee may charge a fee as stated in the affidavit and may be authorized by the purchaser to receive redemption funds. The purchaser must accept the amount computed by the designee.

The amount stated in the affidavits recorded under these provisions must be the amount necessary to satisfy the requirements for redemption.

#### Fees; Automation Fund

Public Act 698 of 2002 amended the Revised Judicature Act to increase the fees a register of deeds may charge for entering or recording deeds and searching for records, and to require each county to establish an automation fund for technology upgrades. The Act requires a register of deeds, until December 31, 2006, to deposit into the fund \$5 of the total fee collected for recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument. Senate Bill 929 deletes the expiration date on that requirement. Also, under the bill, a register of deeds must make this deposit *if* an automation fund has been established.

Chapters 31 and 32 of the RJA require a fee to be paid to the register of deeds for the care and custody of redemption money, if the sum for redemption is paid to the register of deeds. The fee is \$5 under Chapter 31 and \$3 under Chapter 32. Senate Bill 929 increases the \$3 fee to \$5.

The bill also provides that any fees or charges collected by the register of deeds under Section 3140, 3240, 6062, or 6066 of

the RJA must be credited to the automation fund, if a fund is created. (Sections 3140, 3240, and 6062 contain the redemption provisions described above. Under Section 6066, the sums that must be paid under the Act to acquire the title of the original purchaser or to become a purchaser from any creditor, may be paid to the purchaser or creditor, to his or her representatives or assigns, to the officer who made the sale, or to the register of deeds in whose office the certificate of sale is recorded, for the use of the purchaser or creditor entitled to the sums paid. Senate Bill 929, however, deletes this reference to the register of deeds.)

In addition, Senate Bill 931 requires that any fees or charges collected by the register of deeds under Section 48i or 49j of the State Housing Development Authority Act be credited to the automation fund, if a fund is established. (Section 48i applies to the redemption of property foreclosed by the circuit court. Section 49j applies to the redemption of property foreclosed by advertisement.)

MCL 600.2567 et al. (S.B. 929)  
205.203 (S.B. 930)  
125.1448i & 125.1449j (S.B. 931)

Legislative Analyst: Suzanne Lowe

#### **FISCAL IMPACT**

The bills will have no effect on State revenue or expenditures. The changes in fees under the bills will have a likely negligible impact on local unit revenue. The number and/or amount of transactions in which the register of deeds holds redemption money, under the provisions affected by the bills, is unknown. The fees that the bills direct to county automation funds are already deposited in those funds.

Fiscal Analyst: David Zin

#### S0304\s929es

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.