



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5832 (as passed by the House)
Sponsor: Representative Joseph Rivet
House Committee: Commerce
Senate Committee: Commerce and Labor

Date Completed: 11-8-04

CONTENT

The bill would amend Public Act 187 of 1881, which addresses the form of deeds and mortgages of real estate, to require that a mortgage of land "describe the indebtedness or obligations the mortgage secures" rather than "recite the sum for which the mortgage is granted, or the notes or other evidence...of debt, or a description thereof, sought to be secured..." and the date of repayment.

A mortgage that meets the Act's wording requirements is a "good and sufficient" mortgage to the grantee and his or her "heirs, assigns, executors and administrators" with warranty from the grantor and his or her legal representatives. Under the bill, a mortgage meeting the wording requirements would be a "valid and enforceable" mortgage to the grantee and his or her "heirs, assigns, successors, and personal representatives" with warranty from the grantor and his or her legal representatives. Further, under the bill, such a mortgage would be of "marketable" rather than "perfect" title and would be "free from prior incumbrances" rather than "against all previous incumbrances".

In addition, the Act provides that, if the words "and warrant" are omitted, the mortgage is "good" but without warranty. Under the bill, instead, if the indebtedness or obligation secured were described generally, and the words "and warrant" were omitted from the form, the mortgage would be "valid and enforceable", but without warranty.

MCL 565.154

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Maria Tyszkiewicz

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