

Legislative Analysis



REGISTER OF DEEDS SUBSCRIPTIONS

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House Bill 5124

Sponsor: Rep. Joe Hune

Committee: Local Government and Urban Policy

Complete to 3-7-06

A SUMMARY OF HOUSE BILL 5124 AS INTRODUCED 9-6-06

House Bill 5124 would amend Public Act 54 of 1875, which concerns the reproduction of the records in offices of the registers of deeds, to revise the protocols that would be used to provide copies of records to those who request them.

Currently under the law, a register of deeds must furnish facilities for the inspection and examination of the records in his or her office, and for making memoranda or transcripts from the records. Under House Bill 5124 these provisions would be retained. However, the provision would be extended to also require a custodian designated by the register of deeds to make such facilities available. The bill also would require that in a county where the records were maintained in an electronic format, the register of deeds provide access to the records in a manner that allows for the inspection, transcription, and reproductions of the records electronically.

Currently the law requires the register of deeds to respond to a request for a record reproduction in one of three ways: 1) reproduce the record under the Records Media Act, charging a fee not to exceed reasonable costs; 2) provide equipment for the individual to reproduce the record using a medium selected by the register of deeds, charging a fee not to exceed reasonable costs; or 3) authorize the individual to reproduce the record on the premises using equipment provided by that individual. House Bill 5124 would eliminate these provisions. Instead, the bill specifies that a register of deeds provide reproduced records to an individual or entity in a timely manner. The bill specifies that except for a reproduction made by the register of deeds in his or her office on paper, the fee for a reproduction would be the actual cost of reproducing the record, not to exceed four cents per page or image. Further, the register of deeds would be prohibited from placing any restrictions on the reproduction, distribution, use, or transfer of any record maintained.

House Bill 5124 specifies that upon the written request of an individual or entity, a register of deeds must reproduce and provide records on a regular, subscription basis. All requests for subscriptions would have to be for a period of one year, and they would be automatically renewed on an annual basis, unless written notice was given by the subscriber to cancel the subscription.

Under the bill, upon the request of an individual or entity for a "subscription" of records, the register of deeds or records custodian would be required to provide requested records,

as follows. (The term "subscription" means a request for copies of complete, daily records processed by the register of deeds.)

- For each subscription request, the reproduction of the requested daily records in the medium requested, if the requested medium were one that was available.
- For each record provided on a subscription, the register of deeds could charge a fee of the actual cost of reproducing the record, not to exceed 4 cents per page or image (however, a fee could not be charged for a copy of a record obtained through an electronic system maintained by the register of deeds, if a fee was being charged to access the electronic system).
- For each request for daily records, provide the records within three business days (from the date of the request, or the date stamped on the instrument processed by the register of deed, whichever was earlier).
- In addition to the images of the daily records requested on a subscription basis, the register of deeds (or the records custodian) would provide a daily summary of all liber and page number assigned in sequence to the records provided, and a report of all liber and page numbers missing in the sequence of the numbers assigned to instruments on any given day.

Upon a request for a subscription by electronic transfer of optical or digital images, the register of deeds or records custodian would be required to provide and electronically transmit images or entries of all daily records requested on the day that they electronic or digital image of the instrument was made by the register of deeds, provided that all of the following conditions were met.

- The records were capable of being transmitted electronically;
- The individual making the subscription request provided his or her own equipment and personnel necessary to receive the electronic transmission of the requested records in the medium and format (including the file transfer protocol) used by the register of deeds;
- Monthly payments were made, by the person making the electronic subscription request, of the actual cost of reproducing the record, not to exceed four cents per page or image transmitted, or provided by the register of deeds in the previous month.

If a register of deeds failed to comply with this legislation, then the attorney general, the county prosecuting attorney, or an individual or entity could begin a civil action to compel compliance. Further, a civil action for damages could be begun against the register of deeds or the records custodian, by an individual or entity injured as a result of the failure of the register of deeds or records custodian to comply. If an individual or entity began an action for injunctive relief, he or she would not be required to post security as a condition for obtaining a preliminary injunction, or a temporary restraining

order. Finally, if it were determined that a register of deeds or records custodian had failed to comply, and the individual who began the civil action prevailed, then the individual would be entitled to recover all costs and actual attorney fees.

Under the bill, the term "record" would be defined to mean any one of the following: 1) the written or printed transcription, photocopy, photograph, microfilm, or other electronic image of a record received by the register of deeds; 2) entries made by the register of deeds; and 3) an index created and maintained by the register of deeds.

MCL 565.551

FISCAL IMPACT:

The bill would have no state revenue impact. It could increase costs to local units by an indeterminate amount to comply with the bill.

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