

HOUSE BILL No. 5124

September 6, 2005, Introduced by Reps. Hune, Ward and Gaffney and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1875 PA 54, entitled

"An act to facilitate the inspection and reproduction of the records and files in the offices of the registers of deeds,"

by amending section 1 (MCL 565.551), as amended by 1994 PA 51, and by adding sections 2 and 3.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A register of deeds **OR A CUSTODIAN DESIGNATED BY**
2 **THE REGISTER OF DEEDS** shall **AT NO COST** furnish **ACCESS THAT ALLOWS**
3 **THE** proper and reasonable ~~facilities for the~~ inspection and
4 examination of the records ~~and files~~ in his or her office, and
5 for making memorandums or transcripts from the records ~~and files~~
6 during the usual business hours, to an individual having a lawful
7 purpose to examine the records. ~~and files. However, the~~ **IN A**
8 **COUNTY WHERE THE RECORDS ARE MAINTAINED IN AN ELECTRONIC FORMAT,**

1 THE REGISTER OF DEEDS SHALL PROVIDE ACCESS TO THE RECORDS IN A
2 MANNER THAT ALLOWS FOR THE INSPECTION, TRANSCRIPTION, AND
3 REPRODUCTION OF THE RECORDS ELECTRONICALLY.

4 (2) THE REGISTER OF DEEDS OR custodian of the records ~~and~~
5 ~~files~~ may make reasonable rules and regulations with reference to
6 the inspection and examination of the records ~~and files~~ as is
7 necessary to protect the records and files and to prevent
8 interference with the regular discharge of the duties of the
9 register of deeds.

10 (3) ~~(2)~~ If an individual OR ENTITY requests a reproduction
11 of a record ~~or file of a~~ BE PROVIDED BY THE register of deeds,
12 the register of deeds shall ~~do 1 of the following, at the register~~
13 ~~of deeds' option:~~ PROVIDE THE RECORDS TO THE INDIVIDUAL OR ENTITY
14 IN A TIMELY MANNER. EXCEPT FOR A REPRODUCTION MADE BY THE REGISTER
15 OF DEEDS IN HIS OR HER OFFICE ON PAPER, THE FEE FOR A REPRODUCTION
16 SHALL BE THE ACTUAL COST OF REPRODUCING THE RECORD, NOT TO EXCEED 4
17 CENTS PER PAGE OR IMAGE.

18 ~~—— (a) Reproduce the record or file for the individual pursuant~~
19 ~~to the records media act, Act No. 116 of the Public Acts of 1992,~~
20 ~~being sections 24.401 to 24.403 of the Michigan Compiled Laws,~~
21 ~~using a medium selected by the register of deeds. Unless a~~
22 ~~different fee is provided for by law, the fee for a reproduction~~
23 ~~under this subdivision other than a paper copy shall not exceed the~~
24 ~~reasonable costs to the register of deeds.~~

25 ~~—— (b) Provide equipment for the individual to reproduce the~~
26 ~~record or file pursuant to Act No. 116 of the Public Acts of 1992,~~
27 ~~using a medium selected by the register of deeds. Unless a~~

1 ~~different fee is provided for by law, the fee for a reproduction~~
2 ~~under this subdivision other than a paper copy shall not exceed the~~
3 ~~reasonable costs to the register of deeds.~~

4 ~~—— (c) Authorize the individual to reproduce the record or file~~
5 ~~on the premises using equipment provided by that individual. This~~
6 ~~subdivision does not apply unless the individual requests~~
7 ~~authorization to reproduce the record or file using equipment~~
8 ~~provided by that individual.~~

9 (4) ~~(3)~~ A register of deeds may prohibit the reproduction of
10 an instrument temporarily left with the register of deeds to be
11 recorded in the register of deeds' office.

12 (5) THE REGISTER OF DEEDS SHALL NOT PLACE ANY RESTRICTIONS ON
13 THE REPRODUCTION, DISTRIBUTION, USE, OR TRANSFER OF ANY RECORD
14 MAINTAINED BY THE REGISTER OF DEEDS.

15 (6) AS USED IN THIS SECTION, "RECORD" MEANS ANY 1 OF THE
16 FOLLOWING:

17 (A) THE WRITTEN OR PRINTED TRANSCRIPTION, PHOTOCOPY,
18 PHOTOGRAPH, MICROFILM, OR OTHER ELECTRONIC IMAGE OF A RECORD
19 RECEIVED BY THE REGISTER OF DEEDS UNDER SECTION 1 OF 1867 PA 20,
20 MCL 565.491.

21 (B) ENTRIES MADE BY THE REGISTER OF DEEDS UNDER SECTION 24 OF
22 1846 RS 65, MCL 565.24.

23 (C) AN INDEX CREATED AND MAINTAINED BY THE REGISTER OF DEEDS
24 UNDER SECTION 28 OF 1846 RS 65, MCL 565.28.

25 SEC. 2. (1) UPON THE WRITTEN REQUEST OF AN INDIVIDUAL OR
26 ENTITY, A REGISTER OF DEEDS SHALL REPRODUCE AND PROVIDE RECORDS ON
27 A REGULAR, SUBSCRIPTION BASIS. ALL REQUESTS FOR SUBSCRIPTIONS SHALL

1 BE FOR A PERIOD OF 1 YEAR AND ARE AUTOMATICALLY RENEWED ON AN
2 ANNUAL BASIS, UNLESS WRITTEN NOTICE IS GIVEN BY THE SUBSCRIBER TO
3 CANCEL THE SUBSCRIPTION.

4 (2) UPON REQUEST OF AN INDIVIDUAL OR ENTITY FOR A SUBSCRIPTION
5 OF RECORDS, THE REGISTER OF DEEDS OR RECORDS CUSTODIAN SHALL
6 PROVIDE THE REQUESTED RECORDS AS FOLLOWS:

7 (A) FOR EACH SUBSCRIPTION REQUEST, THE REGISTER OF DEEDS OR
8 RECORDS CUSTODIAN SHALL REPRODUCE THE REQUESTED DAILY RECORDS IN
9 THE MEDIUM REQUESTED IF THE REQUESTED MEDIUM IS ONE THAT IS
10 AVAILABLE TO THE REGISTER OF DEEDS OR RECORDS CUSTODIAN.

11 (B) FOR EACH RECORD PROVIDED ON A SUBSCRIPTION, THE REGISTER
12 OF DEEDS MAY CHARGE A FEE OF THE ACTUAL COST OF REPRODUCING THE
13 RECORD, NOT TO EXCEED 4 CENTS PER PAGE OR IMAGE. A FEE SHALL NOT BE
14 CHARGED FOR A COPY OR REPRODUCTION OF A RECORD OBTAINED THROUGH AN
15 ELECTRONIC SYSTEM MAINTAINED BY THE REGISTER OF DEEDS IF A FEE WAS
16 CHARGED TO ACCESS THE ELECTRONIC SYSTEM.

17 (C) EXCEPT FOR REQUESTS FOR ELECTRONIC SUBSCRIPTIONS, THE
18 REGISTER OF DEEDS OR RECORDS CUSTODIAN SHALL REPRODUCE AND PROVIDE
19 THE REQUESTED DAILY RECORDS WITHIN 3 BUSINESS DAYS FROM THE DATE OF
20 THE REQUEST OR THE DATE STAMPED ON THE INSTRUMENT PROCESSED BY THE
21 REGISTER OF DEEDS, WHICHEVER IS EARLIER.

22 (D) IN ADDITION TO THE IMAGES OF THE DAILY RECORDS REQUESTED
23 ON A SUBSCRIPTION BASIS, THE REGISTER OF DEEDS OR RECORDS CUSTODIAN
24 SHALL PROVIDE WITH EACH SUBSCRIPTION A DAILY SUMMARY OF ALL LIBER
25 AND PAGE NUMBERS ASSIGNED IN SEQUENCE TO THE RECORDS PROVIDED AND A
26 REPORT OF ALL LIBER AND PAGE NUMBERS MISSING IN THE SEQUENCE OF THE
27 NUMBERS ASSIGNED TO INSTRUMENTS ON ANY GIVEN DAY.

1 (3) UPON A REQUEST FOR A SUBSCRIPTION BY ELECTRONIC TRANSFER
2 OF OPTICAL OR DIGITAL IMAGES, THE REGISTER OF DEEDS OR RECORDS
3 CUSTODIAN SHALL PROVIDE AND ELECTRONICALLY TRANSMIT IMAGES OR
4 ENTRIES OF ALL DAILY RECORDS REQUESTED ON THE DAY THAT THE
5 ELECTRONIC OR DIGITAL IMAGE OF THE INSTRUMENT IS MADE BY THE
6 REGISTER OF DEEDS, PROVIDED THAT ALL OF THE FOLLOWING CONDITIONS
7 ARE MET:

8 (A) THE RECORDS ARE ELECTRONICALLY PROCESSED AND MAINTAINED BY
9 THE REGISTER OF DEEDS OR RECORDS CUSTODIAN AND ARE CAPABLE OF BEING
10 TRANSMITTED ELECTRONICALLY.

11 (B) THE INDIVIDUAL OR ENTITY MAKING THE SUBSCRIPTION REQUEST
12 PROVIDES ITS OWN EQUIPMENT AND PERSONNEL NECESSARY THE RECEIVE THE
13 ELECTRONIC TRANSMISSION OF THE REQUESTED RECORDS IN THE MEDIUM AND
14 FORMAT, INCLUDING THE FILE TRANSFER PROTOCOL, USED BY THE REGISTER
15 OF DEEDS OR RECORDS CUSTODIAN.

16 (C) MONTHLY PAYMENTS ARE MADE BY THE PERSON OR ENTITY MAKING
17 THE ELECTRONIC SUBSCRIPTION REQUEST OF THE ACTUAL COST OF
18 REPRODUCING THE RECORD, NOT TO EXCEED 4 CENTS PER PAGE OR IMAGE
19 TRANSMITTED OR PROVIDED BY THE REGISTER OF DEEDS OR RECORDS
20 CUSTODIAN IN THE PREVIOUS MONTH.

21 (4) AS USED IN THIS SECTION, "SUBSCRIPTION" MEANS A REQUEST
22 FOR COPIES OF COMPLETE, DAILY RECORDS PROCESSED BY THE REGISTER OF
23 DEEDS.

24 SEC. 3. (1) IF A REGISTER OF DEEDS FAILS TO COMPLY WITH THIS
25 ACT, THE ATTORNEY GENERAL, THE PROSECUTING ATTORNEY OF THE COUNTY
26 OF THE REGISTER OF DEEDS, OR AN INDIVIDUAL OR ENTITY MAY COMMENCE A
27 CIVIL ACTION TO COMPEL COMPLIANCE WITH THIS ACT.

1 (2) A CIVIL ACTION FOR DAMAGES MAY BE COMMENCED AGAINST THE
2 REGISTER OF DEEDS OR RECORDS CUSTODIAN IN HIS OR HER OFFICIAL
3 CAPACITY BY AN INDIVIDUAL OR ENTITY INJURED AS A RESULT OF THE
4 FAILURE OF THE REGISTER OF DEEDS OR RECORDS CUSTODIAN TO COMPLY
5 WITH THIS SECTION. IF AN INDIVIDUAL OR ENTITY COMMENCES AN ACTION
6 FOR INJUNCTIVE RELIEF, THAT INDIVIDUAL OR ENTITY SHALL NOT BE
7 REQUIRED TO POST SECURITY AS A CONDITION FOR OBTAINING A
8 PRELIMINARY INJUNCTION OR A TEMPORARY RESTRAINING ORDER.

9 (3) IF IT IS DETERMINED THAT A REGISTER OF DEEDS OR RECORDS
10 CUSTODIAN HAS FAILED TO COMPLY WITH THIS ACT AND AN INDIVIDUAL OR
11 ENTITY COMMENCES A CIVIL ACTION AGAINST THE REGISTER OF DEEDS OR
12 RECORDS CUSTODIAN TO COMPEL COMPLIANCE OR TO ENJOIN FURTHER
13 NONCOMPLIANCE WITH THIS ACT AND PREVAILS IN THE ACTION, THE
14 INDIVIDUAL OR ENTITY SHALL BE ENTITLED TO RECOVER ALL COSTS AND
15 ACTUAL ATTORNEY FEES.