

# Legislative Analysis



## REAL ESTATE DOC.: CRIMES OF FORGERY OR UTTERING & PUBLISHING

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bills 6520 and 6521**

**Sponsor: Rep. Rebekah Warren**

**Committee: Judiciary**

**Complete to 11-10-10**

### **A SUMMARY OF HOUSE BILLS 6520 AND 6521 AS INTRODUCED 9-29-10**

Michigan law currently prohibits making, altering, forging, or counterfeiting numerous records, both private and public, with the intent to injure or defraud another person. It is also against the law to utter or publish as true, a false, forged, altered, or counterfeit record, deed, instrument, or other writing with intent to injure or defraud. Doing so is a felony with a maximum term of imprisonment of 14 years. House Bill 6520 would revise the provisions relating to real estate documents and House Bill 6521 would amend the corresponding section of the sentencing guidelines.

House Bill 6520 would amend the Michigan Penal Code (MCL 750.248 et al) to replace the current provisions pertaining to a situation in which a person was convicted of falsifying or forging documents related to real property, to instead require the following:

- The circuit court would enter an order stating that the false, forged, altered, or counterfeit document is invalid.
- A copy of the invalid document and a certified copy of the order would be recorded in the office of the register of deeds of the county where the property or part of the property is located. If the invalid document had been previously recorded, the prosecutor would have to provide the circuit court with the liber and page number or unique identifying reference number of the invalid document, which would be recorded in the liber. The register of deeds would have to make reference to the liber and page number or unique identifying reference number of the invalid document in the index of the recorded documents.

The above would pertain to situations in which a person was convicted of the following or a lesser included offense:

**\*\* Falsely making, altering, forging, or counterfeiting a deed, a discharge of mortgage, or a power or letter of attorney or other document affecting an interest in real property with intent to injure or defraud; or,**

**\*\* uttering and publishing as true a false, forged, altered, or counterfeit deed or other document listed above knowing it to be false, forged, altered, or counterfeited with intent to injure or defraud.**

Any recording fees incurred with recording a copy of the invalid document or court order would be paid as ordered by the court. Further, the bill would specify that these provisions would not apply to a scrivener's error.

House Bill 6521 would amend the Code of Criminal Procedure (MCL 777.16n) to specify that forgery of real estate documents or uttering and publishing forged real estate documents would be a Class C felony involving property with a maximum term of imprisonment of 14 years.

#### **FISCAL IMPACT:**

By moving certain crimes related to forged real estate documents from Class E to Class C felonies, the bills could increase the minimum sentences for those convicted of these crimes. Thus, the bills could increase the length of time incarcerated and thereby increase state and local correctional costs. To the extent that violators were sentenced to prison for longer durations, the average appropriated cost of prison incarceration is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of parole and probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year. To the extent that violators were sentenced to local jails for longer durations, local correctional costs would increase. Average local costs vary by jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Bob Schneider

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