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BILL ANALYSIS



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Senate Bill 332 (Substitute S-4)
Sponsor: Senator Ron Jelinek
Committee: Judiciary

Date Completed: 3-9-10

CONTENT

The bill would amend Public Act 123 of 1915, which provides for the recording and use in evidence of affidavits affecting real property, to allow an affidavit correcting certain errors or omissions in previously recorded documents to be recorded with the register of deeds.

Specifically, the bill would allow an affidavit to correct the following types of errors or omissions in previously recorded documents to be recorded in the office of register of deeds for the county where the real property that was the subject of the affidavit was located:

- Errors relating to the proper place of recording.
- Scrivener's errors or omissions.

The affidavit would have to be made by a person with knowledge of the relevant facts or by a person competent to testify concerning those facts in open court, and would have to meet the requirements of Sections 1b and 1c of the Act. (Section 1b provides that any person who knowingly makes any false statement in an affidavit is guilty of perjury. Section 1c requires an affidavit to include a description of the land whose title may be affected by facts stated in the affidavit, and allows a deed, will, mortgage, or other instrument affecting the title that contains a full and adequate description of the land to be incorporated in the affidavit by reference.)

An affidavit to correct errors or omissions would not be necessary if a new document indicating corrective changes and making reference to the errant recording by liber and page number, or other unique identifying number, were recorded. The affidavit could not alter the substantive rights of any party unless that party executed it.

The register of deeds would have to index all names recited within an affidavit recorded under the bill.

Proposed MCL 565.451d

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: David Zin

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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.