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House Bills 5200 and 5201 (as reported without amendment)
Sponsor: Representative Harold Haugh
House Committee: Regulatory Reform
Senate Committee: Economic Development and Regulatory Reform

CONTENT

House Bill 5200 would amend the Occupational Code to delete provisions that govern promotional sales in Michigan of out-of-State real property.

The Code requires a real estate broker who proposes to engage in sales of a promotional nature in Michigan of property located outside of the State to submit to the Department of Energy, Labor, and Economic Growth (DELEG) a full description of the property and the proposed terms of sale. The broker and his or her salespersons must comply with rules, restriction, and conditions pertaining to the sale as imposed by DELEG. The broker must pay any expense incurred by DELEG in investigating the property and its proposed sale in Michigan. A real estate broker or salesperson may not make a representation that the property has been inspected or approved or otherwise passed upon by DELEG or by a State official, department, or employee.

The bill would delete these provisions.

House Bill 5201 would repeal the Land Sales Act, which regulates the disposition of subdivided land.

The Act prohibits a person in Michigan from offering or disposing of any interest in subdivided land located in or outside the State before the land is registered with DELEG. The Act also prohibits a person from disposing of any interest in subdivided land unless a current property report is delivered to the purchaser and the purchaser is given a reasonable opportunity to examine the report. In addition, a person may not engage in any unfair or deceptive act or practice in the conduct and disposition of subdivided land. A person also may not claim that DELEG approved or recommends the subdivided land or its disposition.

Before subdivided land is offered for disposition, the developer must file an application and other documents with DELEG and pay a registration fee. The Department must determine whether conditions for registration are met and enter an order registering the subdivided land or rejecting the registration. A developer must file an annual report regarding registered land. All advertising material that did not accompany the original application must be submitted to DELEG for prior approval.

The Act requires DELEG to investigate every subdivision offered for disposition in the State, and authorizes the Department to perform various functions. The Act also authorizes DELEG to impose administrative sanctions, prescribes criminal penalties for violations, and provides for civil liability.

MCL 339.2511 (H.B. 5200)
565.801-565.835 (H.B. 5201)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would reduce the responsibilities of the Bureau of Commercial Services within the Department of Energy, Labor, and Economic Growth by eliminating State oversight of certain real estate sales, which are currently also regulated by the U.S. Department of Housing and Urban Development. House Bill 5200 would eliminate filings by real estate brokers promoting out-of-State property to buyers in Michigan and House Bill 5201 would repeal the Land Sales Act. This would eliminate fee revenue, which totaled \$14,500 in FY 2008-09. This revenue, however, was not sufficient to cover the estimated \$35,000 cost of the regulations under the Land Sales Act. According to the Department, the Federal government currently collects and reviews the same documents and filings as required under the State regulation that would be eliminated by the bills.

There are no data to indicate how many offenders have been or would be found guilty of violations of the Land Sales Act. Under current law, a range of both felony and misdemeanor penalties is associated with violations of the Act. Repealing the Act would, of course, eliminate these penalties. Local governments would no longer incur the costs of incarceration in local facilities. The State would no longer incur the cost of felony probation at an annual average cost of \$2,000, or the cost of incarceration in a State facility at an average annual cost of \$33,000. Public libraries would no longer receive penal fine revenue generated by violations of the Act.

Date Completed: 2-25-10

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