Legislative Analysis

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E-SIGNATURES ACCEPTED ON DOCUMENTS RECORDED WITH COUNTY REGISTERS OF DEEDS

Senate Bill 62 reported from House committee as S-2
Sponsor: Sen. Curtis Hertel, Jr.
House Committee: Local Government
Senate Committee: Local Government

Complete to 7-9-15

BRIEF SUMMARY: The bill would clarify county registers' of deeds filing requirements for documents having electronic signatures, and provide that a 'certified copy' of a death certificate is the same as an original.

FISCAL IMPACT: The bill would not have a fiscal impact on state and local governments.

THE APPARENT PROBLEM:

Public Act 103 of 1937 prescribes conditions for the completion of documents that are recorded with the county register of deeds.

Specifically, an instrument conveying title to or an interest in real estate must meet certain requirements in order to be recorded, including a requirement that it contain the original signature—sometimes called the "wet" signature—of each person executing the instrument. (These requirements do not apply, however, to a document on which the signature is printed, typewritten, or stamped.)

Today, many documents that convey title to or an interest in real property are generated and delivered electronically, but the law includes no provision for the recording of a document with an electronically affixed signature.

In addition, Public Act 103 specifies that the act does not apply to certain documents, including death certificates.

Further, the Public Health Code specifies that a 'certified copy' of a vital record is considered the same as the original document. Nonetheless and according to committee testimony, some registers of deeds have refused to record a 'certified copy' of a death certificate.

Legislation has been introduced both to permit the recording of electronically signed documents, and also to clarify that the public act's exemption for death certificates would extend to 'certified copies' of death certificates.

THE CONTENT OF THE BILL:

Senate Bill 62 (S-2) would amend Public Act 103 of 1937 to clarify how certain filing requirements for county registers of deeds would apply to documents having electronic signatures. The bill would also provide that a certified copy of a death certificate is the same as an original.

The bill would take effect 90 days after its enactment. A more detailed summary follows.

Now under the law, a document (called an "instrument" in the statute) that conveys, assigns, encumbers, or otherwise disposes of the title to or any interest in real estate may not be received for recording by a county register of deeds unless that document complies with these specific requirements:

- the name of each person executing the document is legibly printed, typewritten, or stamped beneath the person's original signature;
- the name of any notary public whose signature appears on the document is legibly printed, typewritten, or stamped beneath the notary's signature; and
- the address of each of the grantees in each deed of conveyance or assignment of real estate is legibly printed, typewritten, or stamped on the document.
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The requirements listed above do not apply to a document on which the signature itself is printed, typewritten, or stamped.

Senate Bill 62 (S-2) would retain all of these requirements, and extend them so that they also applied to a document on which the signature was electronically affixed.

Further, the law now specifies that it does not apply to certain documents, including a death certificate. Senate Bill 62 (S-2) would retain this provision, and extend it so that it also applied to a certified copy of a death certificate (as described in Section 333.2886 of the Public Health Code, which specifies that certified copies of vital records are considered the same as the originals).

MCL 565.203

HOUSE COMMITTEE ACTION:

The House Local Government Committee reported out the Senate-passed version of Senate Bill 62 (S-2) without amendments.

ARGUMENTS:

For:

Public Act 103 of 1937 provides statewide standards that ensure consistency from county to county in the recording of certain instruments with registers of deeds. Generally, an instrument conveying real property must include an original signature, but the act excuses

from that requirement a document that includes a printed, typewritten, or stamped signature. The bill would update the statute to recognize the modern use of electronically affixed signatures on those documents and authorize the county register of deeds to record documents with electronic signatures.

For:

According to the Ingham County clerk's testimony before legislative committees, one of her constituents had difficulty filing a death certificate with the county's register of deeds because the document was a 'certified copy' and not the true original. The Public Health Code specifies that a 'certified copy' of a vital record *"is considered for all purposes the same as the original and is prima facie evidence of the facts stated in the original"*. To ensure that registers of deeds accept certified copies of death certificates, the bill would include certified copies in a provision specifying that Public Act 103 of 1937 does not apply to a death certificate.

POSITIONS:

The Ingham County clerk supports the bill. (6-17-15)

The Ottawa County clerk supports the bill. (6-17-15)

The Livingston County register of deeds supports the bill. (6-17-15)

The Michigan Bankers Association supports the bill. (6-17-15)

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