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## FISCAL IMPACT REPORT

ORIGINAL DATE  
 SPONSOR SFI LAST UPDATED 03/17/15 HB \_\_\_\_\_

SHORT TITLE Correction of Errors Affecting Property SB 426/SFIS

ANALYST Daly

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation & Licensing Department (RLD)  
 Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

The Senate Floor Substitute for Senate Bill 426 authorizes the use of a "scrivener's affidavit" for use to correct a drafting or clerical error in an instrument affecting the title to real property relating to: 1) a defect in the legal description; 2) a clerical error, an error in a subdivision name or recording information for a subdivision or omitted bearings or distances in a metes and bounds description, as long as the correction does not add or remove land to the land being described; 3) misspelling of a name or incorrect or missing middle initial; 4) an omitted address for a grantee in a deed; or 5) an error in the type of legal entity or state of domicile of a corporation or other legal entity.

The affidavit shall be executed only by: 1) a licensed attorney who prepared the original instrument or a current employee of the title insurer or agent who completed the form of the original instrument for an error on a deed or other legal document prepared in conjunction with a real estate closing; 2) a current employee of the mortgagee or beneficiary named in the form of the original instrument or a licensed attorney representing the mortgagee or beneficiary for an error on a mortgage or deed of trust; 3) a licensed attorney who represents the principal or grantor of the original instrument or by the principal or grantor for an error on a power of attorney or easement; or 4) a licensed attorney who represents a party to the original instrument or who prepared the original instrument for an error on any other writings affecting title to real property.

The bill specifies what information must be contained in a scrivener's error affidavit, and provides the form in which it must be prepared. It prescribes the filing and indexing of such an affidavit. It provides that nothing in the bill shall be deemed to prohibit another manner of correcting errors in writing affecting title to real estate by any other lawful means, or to require a change to the records of the county assessor or the county treasurer.

**FISCAL IMPLICATIONS**

No fiscal impact to the state is anticipated.

**SIGNIFICANT ISSUES**

The bill provides a clear listing of the errors that may be corrected with a scrivener's affidavit. It is unclear, however, why the requirement contained in Section A(2) that a correction to a metes and bounds description cannot add or remove land to the land described also does not apply to any correction in a legal description permitted in Section A(1).

**TECHNICAL ISSUES**

The bill does not specify when a scrivener's affidavit is effective, either relating back to the time of filing of the original document or at the time the affidavit is recorded.

MD/bb/je