

SUBSTITUTE FOR
HOUSE BILL NO. 4640

A bill to amend 1915 PA 123, entitled

"An act to provide for the recording and use in evidence of affidavits affecting real property; and to provide a penalty for the making of false affidavits,"

by amending section 1a (MCL 565.451a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1a. An affidavit stating facts relating to any of the
2 following matters ~~which~~ **THAT** may affect the title to real property
3 in this state **AND** made by any person having knowledge of the facts
4 ~~or by any person~~ **AND** competent to testify concerning ~~such~~ **THOSE**
5 facts in open court ~~—~~ may be recorded in the office of the register
6 of deeds of the county where the real property is situated:

7 (a) Birth, age, sex, marital status, death, name, residence,
8 identity, capacity, relationship, family history, heirship,

1 homestead status and service in the armed forces of parties named
 2 in deeds, wills, mortgages and other instruments affecting real
 3 property. +

4 (b) Knowledge of the happening of any condition or event ~~which~~
 5 **THAT** may terminate an estate or interest in real property. +

6 (c) Knowledge of surveyors ~~duly~~-registered under the laws of
 7 this state with respect to the existence and location of monuments
 8 and physical boundaries, such as fences, streams, roads, and rights
 9 of way of real property. +

10 (d) Knowledge of ~~such-registered~~ surveyors **REGISTERED UNDER**
 11 **THE LAWS OF THIS STATE** reconciling conflicting and ambiguous
 12 descriptions in conveyances with descriptions in a regular chain of
 13 title. +

14 (e) Knowledge of facts incident to possession or the actual,
 15 open, notorious, and adverse possession of real property. + ~~or~~

16 (f) Knowledge of the purchaser, or ~~in the case of~~ **IF THE**
 17 **PURCHASER IS** a corporation, of its president, vice president,
 18 secretary, or other ~~duly~~-authorized representative acting in a
 19 fiduciary or representative capacity, of real property sold upon
 20 foreclosure or conveyed in lieu of foreclosure of a trust mortgage
 21 or deed of trust securing an issue of bonds or other evidences of
 22 indebtedness, or of any mortgage, land contract, or other security
 23 instrument held by a fiduciary or other representative, as to the
 24 authority of ~~such~~-**THE** purchaser to purchase the real property and
 25 as to the terms and conditions upon which the real property is to
 26 be held and disposed of.

27 (G) **KNOWLEDGE OF A PERSON WITH RESPECT TO AN UNRECORDED**

1 MORTGAGE INSTRUMENT IF THE AFFIDAVIT RECITES THE NAMES OF THE
2 PARTIES TO THE UNRECORDED MORTGAGE INSTRUMENT AND IS ACCOMPANIED BY
3 A COPY OF THE UNRECORDED MORTGAGE INSTRUMENT. THE AFFIDAVIT SHALL
4 BE INDEXED AS PROVIDED IN SECTION 28 OF 1846 RS 65, MCL 565.28,
5 UNDER THE NAME OF THE AFFIANT AND ALSO INDEXED UNDER THE NAMES OF
6 THE PARTIES TO THE MORTGAGE INSTRUMENT. THIS SUBDIVISION APPLIES TO
7 ANY AFFIDAVIT REGARDING A MORTGAGE INSTRUMENT WITHIN ITS SCOPE,
8 EVEN IF THE AFFIDAVIT WAS RECORDED BEFORE THE EFFECTIVE DATE OF THE
9 AMENDATORY ACT THAT ADDED THIS SUBDIVISION. HOWEVER, A COPY OF AN
10 UNRECORDED MORTGAGE INSTRUMENT AND AFFIDAVIT SHALL NOT BE RECEIVED
11 AND RECORDED BY THE REGISTER OF DEEDS ON OR AFTER THE EFFECTIVE
12 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION UNLESS THE
13 AFFIDAVIT AND THE COPY OF THE MORTGAGE INSTRUMENT ARE LEGIBLE AND
14 THE AFFIDAVIT STATES ALL OF THE FOLLOWING:

15 (i) THE NAMES OF THE MORTGAGOR AND MORTGAGEE.

16 (ii) A LEGAL DESCRIPTION OF THE PROPERTY, THE PROPERTY TAX
17 IDENTIFICATION NUMBER, AND, IF APPLICABLE, THE ADDRESS OF THE
18 PROPERTY.

19 (iii) THAT THE ORIGINAL MORTGAGE INSTRUMENT HAS BEEN LOST OR
20 DESTROYED.

21 (iv) THAT THE ORIGINAL MORTGAGE INSTRUMENT WAS SIGNED BY THE
22 PARTIES TO THE UNRECORDED MORTGAGE INSTRUMENT.

23 (v) THAT, TO THE BEST OF THE AFFIANT'S KNOWLEDGE, THE ORIGINAL
24 MORTGAGE INSTRUMENT WAS DELIVERED FROM THE MORTGAGOR TO THE
25 MORTGAGEE.

26 (vi) THAT THE AFFIANT DID 1 OF THE FOLLOWING, AS APPLICABLE:

27 (A) MAILED A COPY OF THE AFFIDAVIT AND UNRECORDED MORTGAGE

1 INSTRUMENT BY FIRST-CLASS CERTIFIED MAIL TO THE MORTGAGOR AT THE
2 MORTGAGOR'S ADDRESS LAST KNOWN TO THE AFFIANT.

3 (B) PERSONALLY SERVED A COPY OF THE AFFIDAVIT AND UNRECORDED
4 MORTGAGE INSTRUMENT ON THE MORTGAGOR.

5 Enacting section 1. This amendatory act does not take effect
6 unless House Bill No. 4638 of the 97th Legislature is enacted into
7 law.