

SENATE 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,
9 homestead status and service in the armed forces of parties named

1 in deeds, wills, mortgages and other instruments affecting real
2 property. †

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

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

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

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

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

26 (G) **KNOWLEDGE OF A PERSON WITH RESPECT TO AN UNRECORDED**
27 **MORTGAGE INSTRUMENT IF THE AFFIDAVIT RECITES THE NAMES OF THE**

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

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

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

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

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

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

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

1 (A) MAILED A COPY OF THE AFFIDAVIT AND UNRECORDED MORTGAGE
2 INSTRUMENT BY FIRST-CLASS CERTIFIED OR REGISTERED MAIL, RETURN
3 RECEIPT REQUESTED, TO THE MORTGAGOR AT THE MORTGAGOR'S ADDRESS LAST
4 KNOWN TO THE AFFIANT. ACTUAL DELIVERY OF THAT MAIL OR THE RETURN OF
5 A SIGNED RETURN RECEIPT IS NOT REQUIRED FOR THE PURPOSES OF THIS
6 SUB-SUBPARAGRAPH.

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

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