

HOUSE BILL No. 4345

February 20, 1991, Introduced by Reps. Jondahl, DeMars, Scott, Nye and Clack and referred to the Committee on Judiciary.

A bill to amend the title and sections 3, 4, and 5 of Act No. 13 of the Public Acts of 1968, entitled

"An act to limit the duration of possibilities of reverter and rights of entry in conveyances of real property in certain cases,"

being sections 554.63, 554.64, and 554.65 of the Michigan Compiled Laws; to add sections 3a and 6; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 3, 4, and 5 of Act No. 13
2 of the Public Acts of 1968, being sections 554.63, 554.64, and
3 554.65 of the Michigan Compiled Laws, are amended and sections 3a
4 and 6 are added to read as follows:

TITLE

1

2 An act to limit the duration of possibilities of reverter
3 and rights of entry in conveyances of real property in certain
4 cases; AND TO PRESERVE THE POSSIBILITY OF REVERTER IN CERTAIN
5 CASES.

6 Sec. 3. (1) A right of termination under a terminable
7 interest ~~which was created prior to the effective date of this~~
8 ~~act~~ is unenforceable if ~~the~~ BOTH OF THE FOLLOWING CIRCUM-
9 STANCES EXIST:

10 (A) THE specified contingency does not occur within 30 years
11 after the DATE OF THE DEED OR OTHER INSTRUMENT OR THE DATE OF THE
12 PROBATE OF THE WILL CREATING THE terminable interest. ~~was cre-~~
13 ~~ated or within 1 year after the effective date of this act,~~
14 ~~whichever is later.~~

15 (B) THE RIGHT OF TERMINATION IS NOT PRESERVED BY THE ORIGI-
16 NAL GRANTOR OF THE TERMINABLE INTEREST AS DESCRIBED IN SECTION 5
17 AND THE OWNER OF THE TERMINABLE INTEREST HAS COMPLIED WITH THE
18 REQUIREMENTS OF SECTION 6.

19 (2) EXCEPT AS PROVIDED IN SECTION 3A, THIS SECTION APPLIES
20 TO EVERY RIGHT OF TERMINATION AND TERMINABLE INTEREST REGARDLESS
21 OF WHEN THE RIGHT OR INTEREST WAS CREATED.

22 SEC. 3A. THIS ACT SHALL NOT BE CONSTRUED TO AFFECT THE
23 RIGHTS OF A BONA FIDE PURCHASER OF AN INTEREST CONVEYED BY A
24 GRANTOR WHO RELIED ON PROVISIONS OF THIS ACT AS THEY WERE BEFORE
25 THE EFFECTIVE DATE OF THIS SECTION.

26 Sec. 4. This act does not apply:

1 (a) To a lease for a term of years.

2 (B) TO AN EASEMENT.

3 (C) ~~(b)~~ If the specified contingency must occur, if at
4 all, within the period of the rule against perpetuities.

5 (D) ~~(c)~~ If the terminable interest is held for public,
6 educational, religious, or charitable purposes.

7 (E) ~~(d)~~ If the terminable interest is created in a convey-
8 ance from the United States of America, the state, or any agency
9 or political subdivision ~~of either of them~~ THEREOF.

10 Sec. 5. (1) ~~A right of termination may be preserved~~
11 EXCEPT AS PROVIDED IN SECTION 6, IF THE ORIGINAL GRANTOR OF THE
12 TERMINABLE INTEREST IS THE OWNER OF THE PROPERTY ADJACENT TO THE
13 PROPERTY SUBJECT TO THE RIGHT OF TERMINATION, HE OR SHE MAY PRE-
14 SERVE THE RIGHT OF TERMINATION by the recording, within a period
15 of not less than 25 nor more than 30 years after creation of the
16 terminable interest or within ~~1 year~~ 3 YEARS after the effec-
17 tive date of ~~this act~~ SECTION 6, whichever is later, of a writ-
18 ten notice that the ~~owner of such right of termination desires~~
19 ~~to preserve the same, such~~ ORIGINAL GRANTOR OF THE TERMINABLE
20 INTEREST IS PRESERVING THE RIGHT OF TERMINATION. THE notice ~~to~~
21 SHALL be recorded ~~in~~ WITH the register of deeds ~~office of~~ IN
22 the county where the real property subject to ~~such~~ THE right of
23 termination is located. ~~Such~~ A notice RECORDED UNDER THIS
24 SECTION shall be verified by oath, ~~shall~~ describe the land
25 involved and the nature of ~~such~~ THE right of termination,
26 including the specified contingency, and ~~shall~~ state the name
27 and address of the ~~owner of such right of termination~~ ORIGINAL

1 GRANTOR OF THE TERMINABLE INTEREST. The recording of ~~such~~ THE
2 notice shall operate to preserve ~~such~~ THE right of termination
3 from the operation of this act for a period of 30 years from the
4 date ~~of recording of such notice~~ THE NOTICE WAS RECORDED.

5 (2) A RIGHT OF TERMINATION MAY CONTINUE TO BE PRESERVED FOR
6 SUCCESSIVE PERIODS OF 30 YEARS BY THE ORIGINAL GRANTOR OF THE
7 TERMINABLE INTEREST RECORDING A NOTICE, MEETING THE REQUIREMENTS
8 OF THIS SECTION, BEFORE THE EXPIRATION OF THE 30-YEAR PERIOD
9 DURING WHICH A RIGHT OF TERMINATION WAS PREVIOUSLY PRESERVED
10 UNDER THIS SECTION.

11 (3) EXCEPT AS PROVIDED IN SECTION 3A, A RIGHT OF TERMINATION
12 PRESERVED UNDER THIS SECTION AFTER THE EFFECTIVE DATE OF SECTION
13 6 SHALL HAVE THE SAME LEGAL EFFECT AS IF IT HAD BEEN PROPERLY
14 RECORDED UNDER THIS SECTION BEFORE THE EFFECTIVE DATE OF SECTION
15 6.

16 SEC. 6. (1) AN OWNER OF A TERMINABLE INTEREST WHO INTENDS
17 TO RELY UPON THE PROVISIONS OF THIS ACT SHALL DO ALL OF THE
18 FOLLOWING:

19 (A) GIVE ACTUAL NOTICE CONSISTENT WITH SUBSECTION (2) TO THE
20 ORIGINAL GRANTOR OF THE TERMINABLE INTEREST OF THE OWNER'S INTEN-
21 TION TO RELY UPON THE PROVISIONS OF THIS ACT.

22 (B) ERECT AND POST UPON THE REAL PROPERTY SUBJECT TO THE
23 TERMINABLE INTEREST, IN LOCATIONS REASONABLY EXPECTED TO BE VISI-
24 BLE TO THOSE OWNING AND OCCUPYING THE ADJACENT PROPERTY, NOTICE
25 OF THE OWNER'S INTENT TO RELY UPON THE PROVISIONS OF THIS ACT.

26 (C) PUBLISH IN A NEWSPAPER, PUBLISHED AND DISTRIBUTED WITHIN
27 THE COUNTY WHERE THE PROPERTY IS LOCATED AND HAVING COUNTY-WIDE

1 CIRCULATION, FOR A PERIOD OF 4 SUCCESSIVE WEEKS, THE OWNER'S
2 INTENT TO RELY UPON THE PROVISIONS OF THIS ACT.

3 (2) THE NOTIFICATION, POSTING, AND PUBLICATION PROVISIONS
4 SET FORTH IN THIS SECTION SHALL BE REASONABLY CALCULATED TO GIVE
5 NOTICE TO THE ORIGINAL GRANTOR OF THE TERMINABLE INTEREST AND
6 SHALL CONTAIN INFORMATION AS IS REASONABLE TO NOTIFY THE ORIGINAL
7 GRANTOR OF THE TERMINABLE INTEREST OF THE EFFECT THAT THIS ACT
8 WOULD HAVE UPON HIS OR HER RIGHTS, AND SHALL INCLUDE, BUT NOT BE
9 LIMITED TO, THE FOLLOWING INFORMATION:

10 (A) THE NAME AND LAST KNOWN ADDRESS OF THE ORIGINAL GRANTOR
11 OF THE TERMINABLE INTEREST.

12 (B) A SPECIFIC DESCRIPTION OF THE PROPERTY AFFECTED.

13 (C) THE NAME AND ADDRESS OF THE PARTY OR PARTIES WHO INTEND
14 TO RELY UPON THE PROVISIONS OF THIS ACT, OR THAT PERSON'S ATTOR-
15 NEY OR DESIGNATED REPRESENTATIVE.

16 (3) UPON RECEIPT OF THE NOTICE OR INFORMATION REQUIRED TO BE
17 DELIVERED, POSTED, OR PUBLISHED BY THIS SECTION, THE ORIGINAL
18 GRANTOR OF THE TERMINABLE INTEREST SHALL HAVE THE RIGHT, FOR A
19 PERIOD OF 90 DAYS AFTER RECEIVING THE NOTICE, TO RECORD A NOTICE
20 OF PRESERVING THE RIGHT OF TERMINATION AS PROVIDED IN SECTION 5.
21 UPON THE RECORDING OF THE NOTICE, THE RIGHT OF TERMINATION SHALL
22 BE PRESERVED IN THE SAME MANNER AS IF IT HAD BEEN RECORDED IN
23 ACCORDANCE WITH SECTION 5.

24 Section 2. Section 2 of Act No. 13 of the Public Acts of
25 1968, being section 554.62 of the Michigan Compiled Laws, is
26 repealed.