

**LAND CONTRACT MORTGAGE ACT:
DEFINE 'REAL ESTATE MORTGAGE'**

House Bill 5328
Sponsor: Rep. Michael Bishop
Committee: Commerce

Complete to 1-28-02

A SUMMARY OF HOUSE BILL 5328 AS INTRODUCED 10-23-01

The bill would rewrite the definition of "real estate mortgage" found in the Land Contract Act.

Currently, "real estate mortgage" is defined as a mortgage granted on interest in real property, which is created when the vendor (seller) and the vendee (buyer) join in or subject their respective interests to a single mortgage. The act specifies that a land contract mortgage is not a real estate mortgage. House Bill 5328 would amend the act so that a "real estate mortgage" would be defined as a mortgage granted upon an interest in real property, other than a mortgage upon a vendor's or a vendee's interest in a land contract unless the vendor and the vendee join in or subject their respective interests to a single mortgage. The underlined language would be the new language added. The definition would continue to say that a land contract mortgage is not a real estate mortgage.

The Land Contract Act was amended by Public Act 106 of 1998 (House Bill 5282) to allow the creation, recording, and enforcement of a mortgage granted against a land contract in generally the same fashion as allowed for real estate mortgages. The act, generally speaking, allows either a buyer or a seller of property under a land contract to execute a land contract mortgage to secure any debt or obligation that can be secured under a real estate mortgage.

A land contract is an installment contract for the purchase and sale of land under which the seller or vendor retains legal title to the property pending payment of the final installment, at which time the title is transferred to the purchaser or vendee. Under a land contract, the purchaser has the right to possession and the right to receive rent from tenants.

MCL 565.356

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