

Legislative Analysis



MORTGAGE: STATUTORY FORM OF CONVEYANCE

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House Bill 5832

Sponsor: Rep. Joseph Rivet

Committee: Commerce

Complete to 5-3-04

A SUMMARY OF HOUSE BILL 5832 AS INTRODUCED 4-29-04

The bill would amend Public Act 187 of 1881, which addresses the form of deeds and mortgages of real estate, to provide that a mortgage of lands, if it is worded substantially as required by the bill, is a valid and enforceable mortgage to the grantee, and the grantee's heirs, assigns, successors, and personal representatives with warranty from the grantor and the grantor's legal representatives, of marketable title in the grantor, free from prior incumbrances. The underlined expressions would replace "good and sufficient mortgage", "perfect title", and "against all previous incumbrances", respectively.

The bill also would update the required wording of a mortgage of lands so that it would read: "A.B. mortgages and warrants to C.D., (here describe the premises) to secure the repayment of" (here describe the indebtedness or obligations the mortgage secures). It would require the mortgage to be signed by the grantor.

Currently, the act requires the mortgage to be read: "A.B. mortgages and warrants to C.D., (here describe the premises) to secure the repayment of" (here recite the sum for which the mortgage is granted, or the notes or other evidence [evidences] of debt, or a description thereof, sought to be secured, also the date of the repayment). The act requires the mortgage to be "dated and duly signed, sealed and acknowledged by the grantor".

Currently, the act says that if a mortgage in the above form omits the words "and warrant", then the mortgage "shall be good but without warranty." The bill would say, instead, that if the indebtedness or obligations secured are described generally, such as "All indebtedness that A.B. now and in the future owes C. D.", and if the words "and warrant" are omitted from the form, the mortgage would be valid and enforceable, but without warranty.

MCL 565.154

FISCAL IMPACT:

The bill has no state or local fiscal impact.

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