

Act No. 447
Public Acts of 2004
Approved by the Governor
December 21, 2004
Filed with the Secretary of State
December 27, 2004
EFFECTIVE DATE: December 27, 2004

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Reps. Farhat, Stahl, Brandenburg, Ward, Sheltroun, Gillard, Elkins, Emmons, Pastor, Casperson, Gaffney, Nofs, Newell, Garfield, Milosch, DeRoche and Wenke

ENROLLED HOUSE BILL No. 4817

AN ACT to amend 1846 RS 65, entitled "Of alienation by deed, and the proof and recording of conveyances, and the canceling of mortgages," by amending sections 41 and 44 (MCL 565.41 and 565.44).

The People of the State of Michigan enact:

Sec. 41. (1) Within the applicable time period in section 44(2) after a mortgage has been paid or otherwise satisfied, the mortgagee or the personal representative, successor, or assign of the mortgagee shall prepare a discharge of the mortgage, file the discharge with the register of deeds for the county where the mortgaged property is located, and pay the fee for recording the discharge.

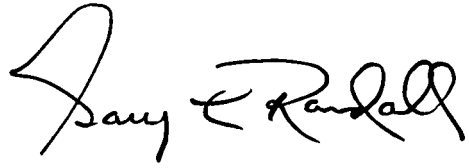
(2) If a discharge of mortgage received by a register of deeds under subsection (1) is not recorded on the day it is received, the register of deeds shall place on or attach to the discharge, by means of a stamp, electronically, or otherwise, the date the discharge is received. The date placed on or attached to the discharge under this subsection is prima facie evidence of the date the discharge was filed with the register of deeds.

Sec. 44. (1) If a mortgagee or the personal representative or assignee of the mortgagee, after full performance of the condition of the mortgage, whether before or after a breach of the mortgage, or, if the mortgage is entirely due, after a tender of the whole amount due, within the applicable time period in subsection (2) after being requested and after tender of the mortgagee's reasonable charges, refuses or neglects to discharge the mortgage as provided in this chapter or to execute and acknowledge a certificate of discharge or release of the mortgage, the mortgagee is liable to the mortgagor or the mortgagor's heirs or assigns for \$1,000.00 damages. The mortgagee is also liable for all actual damages caused by the neglect or refusal to the person who performs the condition of the mortgage or makes the tender to the mortgagee or the mortgagee's heirs or assigns, or to anyone who has an interest in the mortgaged premises. Damages under this section may be recovered in an action for money damages or to procure a discharge or release of the mortgage. The court may, in its discretion, award double costs in an action under this section.

(2) The discharge of mortgage, execution and acknowledgment of a certificate, or filing of a discharge of mortgage required by this section or section 41 shall be performed within whichever of the following time periods is applicable:

- (a) For the first 2 years after the effective date of the amendatory act that added this subsection, 75 days.
- (b) Beginning 2 years after the effective date of the amendatory act that added this subsection, 60 days.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor