

SUBSTITUTE FOR
SENATE BILL NO. 927

A bill 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 24 and 25 (MCL 565.24 and 565.25), section
25 as amended by 1996 PA 526, and by adding section 24a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 24. ~~Every register of deeds shall keep an entry book of~~
2 ~~deeds and an entry book of mortgages, each page of which shall be~~
3 ~~divided into 6 columns, with title or heads to the respective~~
4 ~~columns, in the following form, to wit:~~

1	Date of	Grantors	Grantees	Township where the land lies			To whom delivered (after being recorded) and date (of delivery).	Fee (Fees) Received.
2	Reception							
3								
4								
5								
6								
7								
8				Town.	Range.	Section.		

9 ——— He shall also keep a reception book of levies.

10 ——— Where it is found desirable to consolidate reception book entries into 1 book, it may
 11 be done by providing a sheet divided into 9 vertical columns with title or heading to the
 12 respective columns in the following form:

1	RECEIPT	DATE OF	GRANTORS	GRANTEES	LOCATION	KIND OF	TO WHOM	DATE	FEEES
2	NUMBER	RECEIPT	OR	OR	OF LAND	INSTRU-	DELIVERED	MAILED	RECEIVED
3		MONTH, DAY,	MORTGAGORS	MORTGAGEES	TOWN,	MENT-			
4		HOOR-	OR	OR	RANGE,				
5			DEPENDANTS	PLAINTIFFS	SECTION-				
6									
7									
8	THIS								THIS
9	COLUMN								COLUMN
10	WOULD								WOULD
11	CONTAIN								CONTAIN
12	CONSECU-								ALL
13	TIVE								STATUTORY
14	ENTRY								FEEES
15	NUMBERS-								CHARGED

(1) UPON DELIVERY OF AN INSTRUMENT TO THE REGISTER OF DEEDS FOR THE PURPOSE OF RECORDING, THE REGISTER SHALL NOTE THE DATE, HOUR, AND MINUTE OF DELIVERY ON THE FIRST PAGE OF THE INSTRUMENT USING A STAMP OR OTHER METHOD SIGNIFYING THAT THE DATE, HOUR, AND MINUTE WAS AFFIXED BY THE REGISTER OR A DULY AUTHORIZED REPRESENTATIVE OF THE REGISTER. IF THE INSTRUMENT IS RECEIVED IN BULK WITH OTHER INSTRUMENTS, THE DATE, HOUR, AND MINUTE OF DELIVERY SHALL BE AFFIXED IN THE MANNER REQUIRED BY THIS SECTION AS SOON AS IS PRACTICAL AFTER ITS DELIVERY. THE DATE, HOUR, AND MINUTE SO NOTED SHALL BE PRESUMED TO BE THE DATE AND TIME OF DELIVERY.

(2) EACH INSTRUMENT DELIVERED TO A REGISTER SHALL BE ACCESSIBLE FOR PUBLIC REVIEW. ACCESSIBILITY SHALL BE SATISFIED BY PROVIDING THE INSTRUMENT INSCRIBED IN A TANGIBLE MEDIUM WHEN REQUESTED. THE REQUIREMENT OF THIS SUBSECTION SHALL BE CONSIDERED TO BE SATISFIED IF THE LENGTH OF TIME BETWEEN A REQUEST TO LOCATE A PARTICULAR DOCUMENT OR DOCUMENTS AND THE TIME THE SEARCH IS INITIATED AND COMPLETED IS REASONABLE IN LIGHT OF THE VOLUME OF ALL INSTRUMENTS BEING RECORDED AND THE ABILITY TO ACCESS THE REQUESTED DOCUMENTS WITHOUT UNDUE DISRUPTION TO THE OFFICE OF THE REGISTER. A REGISTER OF DEEDS ALSO MAY, BUT IS NOT REQUIRED TO, DO ANY OF THE FOLLOWING:

(A) PROVIDE AT LEAST THE FIRST PAGE OF THE INSTRUMENT, STORED IN AN ELECTRONIC OR OTHER MEDIUM.

(B) PROVIDE A TEMPORARY SEARCHABLE JOURNAL CONTAINING AT LEAST THE DATE OF DELIVERY, TITLE OF THE INSTRUMENT, AND THE NAMES OF THE PARTIES TO THE INSTRUMENT.

(3) ANY INFORMATION CREATED OR MAINTAINED UNDER SUBSECTION (2) MAY BE DESTROYED WHEN THE INSTRUMENT IS ENTERED INTO THE INDEX DESCRIBED IN SECTION 28 OF THIS CHAPTER OR WHEN THE INSTRUMENT IS NOT ACCEPTED FOR RECORDING.

(4) A REGISTER SHALL NOT CHARGE A FEE FOR ANY REVIEW OR SEARCH UNDER SUBSECTION (2) UNLESS IT INVOLVES THE SEARCH OF AN ORIGINAL INSTRUMENT. AN ORIGINAL INSTRUMENT IS AVAILABLE FOR PUBLIC REVIEW ONLY IN THE PRESENCE OF THE REGISTER, DEPUTY REGISTER, OR A REPRESENTATIVE OF THE REGISTER APPOINTED FOR THAT PURPOSE. WHEN A NAME SEARCH IS PERFORMED BY THE REGISTER OR A REPRESENTATIVE OF THE REGISTER, A REASONABLE FEE, NOT TO EXCEED \$15.00 FOR EACH 15 MINUTES OR FRACTION THEREOF, MAY BE CHARGED FOR ANY SEARCH OR REVIEW REQUESTED.

(5) SUBSECTIONS (2) TO (4) DO NOT APPLY ONCE THE INSTRUMENT IS INDEXED AS REQUIRED IN SECTION 28 OF THIS CHAPTER.

(6) THE REGISTER OF DEEDS SHALL POST IN A CONSPICUOUS PLACE IN THE REGISTER'S OFFICE THE GENERAL INDEX DATE AND SHALL MAINTAIN A RECORD THAT MEMORIALIZES BOTH THE CALENDAR DATE AND GENERAL INDEX DATE THAT WAS POSTED ON THAT CALENDAR DATE. THIS PUBLIC RECORD SHALL BE MAINTAINED IN ANY REASONABLE MEDIUM THAT THE REGISTER OF DEEDS MAY SELECT IN HIS OR HER SOLE DISCRETION. AS USED IN THIS SUBSECTION, "GENERAL INDEX DATE" MEANS THAT DATE THROUGH WHICH ALL RECORDED INSTRUMENTS BEARING A DELIVERY DATE UP TO AND INCLUDING THE GENERAL INDEX DATE HAVE BEEN FULLY RECORDED AT LENGTH AND INDEXED AND ARE AVAILABLE FOR PUBLIC INSPECTION.

(7) IF A COUNTY REGISTER OF DEEDS OR AN OFFICER, EMPLOYEE, OR AGENT OF A REGISTER OF DEEDS IS, OR BELIEVES HE OR SHE IS,

1 ACTING WITHIN THE SCOPE OF HIS OR HER AUTHORITY AND IN THE COURSE
2 OF HIS OR HER EMPLOYMENT WHEN AUTHORIZING, CONDUCTING, OR
3 DECIDING WHEN OR WHETHER TO CONDUCT A SEARCH UNDER SUBSECTION
4 (2), THAT ACTION IS WITHIN THE EXERCISE OR DISCHARGE OF HIS OR
5 HER GOVERNMENTAL FUNCTION, AND THE REGISTER OF DEEDS OR THE
6 OFFICER, EMPLOYEE, OR AGENT IS IMMUNE FROM ANY CLAIM FOR
7 LIABILITY, INCLUDING TORT LIABILITY, THAT MIGHT OTHERWISE ENTITLE
8 ANY PERSON OR OTHER ENTITY OR CORPORATION TO MONETARY DAMAGES.
9 THE CIVIL IMMUNITY PROVIDED UNDER THIS SECTION IS IN ADDITION TO
10 ANY CIVIL IMMUNITY PROVIDED UNDER LAW, INCLUDING, BUT NOT LIMITED
11 TO, THE APPLICATION OF SECTION 7 OF 1964 PA 170, MCL 691.1407.

12 SEC. 24A. (1) THE REGISTER'S ASSIGNMENT OF A LIBER AND PAGE
13 OR OTHER UNIQUE IDENTIFYING NUMBER IS PRIMA FACIE EVIDENCE THAT
14 THE INSTRUMENT HAS SATISFIED ALL RECORDING REQUIREMENTS,
15 INCLUDING THE PAYMENT OF FEES, AND HAS BEEN ACCEPTED FOR
16 RECORDING.

17 (2) AN INSTRUMENT IS DEEMED TO BE RECORDED AT THE DATE AND
18 TIME OF DELIVERY TO THE REGISTER IF THE INSTRUMENT IS LATER
19 DETERMINED TO HAVE SATISFIED ALL RECORDING REQUIREMENTS,
20 INCLUDING THE PAYMENT OF FEES.

21 (3) WHEN AN INSTRUMENT THAT WAS REJECTED ON A PRIOR OCCASION
22 IS DELIVERED, A NEW DELIVERY DATE AND TIME SHALL BE NOTED ON THE
23 FACE OF THE INSTRUMENT AS REQUIRED BY SECTION 24 OF THIS CHAPTER,
24 AND THE LATER DATE AND TIME SHALL BE REBUTTABLY PRESUMED TO BE
25 THE DATE AND TIME OF DELIVERY.

26 ~~Sec. 25. (1) In the entry book of deeds, the register shall~~
27 ~~enter all deeds of conveyance absolute in their terms, and not~~

~~intended as mortgages or securities, and all copies left as cautions. In the entry book of mortgages the register shall enter all mortgages and other deeds intended as securities, and all assignments of any mortgages or securities. In the entry book of levies the register shall enter all levies, attachments, liens, notices of lis pendens, sheriffs' certificates of sale, United States marshals' certificates of sale, other instruments of encumbrances, and documentation required under subsection (2), noting in the books, the day, hour, and minute of receipt, and other particulars, in the appropriate columns in the order in which the instruments are respectively received.~~

(1) ~~(2)~~ Except as otherwise provided in subsection ~~(3)~~ **(2)**, the recording of a levy, attachment, lien, lis pendens, sheriff's certificate, marshal's certificate, or other instrument of encumbrance does not perfect the instrument of encumbrance unless both of the following are found by a court of competent jurisdiction to have accompanied the instrument when it was ~~presented~~ **DELIVERED** to the register ~~for entry~~ **UNDER SECTION 24(1) OF THIS CHAPTER:**

(a) A full and fair accounting of the facts that support recording of the instrument of encumbrance and supporting documentation, as available.

(b) Proof of service that actual notice has been given to the recorded landowner of the land to which the instrument of encumbrance applies.

(2) ~~(3)~~ Subsection ~~(2)~~ **(1)** does not apply to any of the following:

1 (a) A tax lien that is not required to be recorded pursuant
2 to the general property tax act, ~~Act No. 206 of the Public Acts~~
3 ~~of 1893, being sections 211.1 to 211.157 of the Michigan Compiled~~
4 ~~Laws 1893 PA 206, MCL 211.1 TO 211.155.~~

5 (b) The filing of an instrument of encumbrance authorized by
6 state statute or federal statute.

7 (c) The filing of a consensual agreement to encumber real
8 property entered into between the owner of real property and the
9 person who seeks to record an encumbrance. A consensual agreement
10 includes but is not limited to a mortgage, loan agreement, land
11 contract, or other consensual or contractual agreement of
12 whatever description entered into between the owner of real
13 property and the person who seeks to record an encumbrance.

14 (d) The filing of an encumbrance authorized in a final order
15 by a court of competent jurisdiction.

16 (e) A filing of a levy, attachment, lien, lis pendens,
17 sheriff's certificate, marshal's certificate, or other instrument
18 of encumbrance by a commercial lending institution. As used in
19 this section, "commercial lending institution" means any of the
20 following:

21 (i) A state or nationally chartered bank.

22 (ii) A state or federally chartered savings and loan
23 association or savings bank.

24 (iii) A state or federally chartered credit union.

25 (iv) Any other state or federally chartered lending
26 institution or regulated affiliate or regulated subsidiary of any
27 entity listed in this subparagraph or subparagraphs (i) to (iii).

(v) An insurance company authorized to do business in this state pursuant to the insurance code of 1956, ~~Act No. 218 of the Public Acts of 1956, being sections 500.100 to 500.8302 of the Michigan Compiled Laws~~ **1956 PA 218, MCL 500.100 TO 500.8302.**

(vi) A motor vehicle finance company subject to the motor vehicle sales finance act, ~~Act No. 27 of the Public Acts of the Extra Session of 1950, being sections 492.101 to 492.141 of the Michigan Compiled Laws~~ **1950 (EX SESS) PA 27, MCL 492.101 TO 492.141**, with net assets in excess of \$50,000,000.00.

(vii) A foreign bank.

(viii) A retirement fund regulated pursuant to state law, or a pension fund of a local unit of government or a pension fund regulated pursuant to federal law with net assets in excess of \$50,000,000.00.

(ix) A federal, state, or local agency authorized by law to hold a security interest in real property or a local unit of government holding a reversionary interest in real property.

(x) A nonprofit tax exempt organization created to promote economic development in which a majority of the organization's assets are held by a local unit of government.

(xi) An entity within the federally chartered farm credit system.

(xii) A licensee under the mortgage brokers, lenders, and servicers licensing act, ~~Act No. 173 of the Public Acts of 1987, being sections 445.1651 to 445.1684 of the Michigan Compiled Laws~~ **1987 PA 173, MCL 445.1651 TO 445.1684.**

(xiii) A holder under the home improvement finance act, ~~Act~~

~~No. 332 of the Public Acts of 1965, being sections 445.1101 to 445.1431 of the Michigan Compiled Laws 1965 PA 332, MCL 445.1101 TO 445.1431.~~

(xiv) A retail seller under the retail installment sales act, ~~Act No. 224 of the Public Acts of 1966, being sections 445.851 to 445.873 of the Michigan Compiled Laws 1966 PA 224, MCL 445.851 TO 445.873.~~

(xv) A licensee under ~~Act No. 125 of the Public Acts of 1981, being sections 493.51 to 493.81 of the Michigan Compiled Laws~~ **THE SECONDARY MORTGAGE LOAN ACT, 1981 PA 125, MCL 493.51 TO 493.81,** pertaining to secondary mortgages.

(xvi) A licensee under the consumer financial services act, ~~Act No. 161 of the Public Acts of 1988, being sections 487.2051 to 487.2072 of the Michigan Compiled Laws 1988 PA 161, MCL 487.2051 TO 487.2072.~~

(xvii) A licensee under the regulatory loan act, ~~of 1963, Act No. 21 of the Public Acts of 1939, being sections 493.1 to 493.26 of the Michigan Compiled Laws 1939 PA 21, MCL 493.1 TO 493.24.~~

(xviii) A regulated lender under the credit reform act, ~~Act No. 162 of the Public Acts of 1995, being sections 445.1851 to 445.1864 of the Michigan Compiled Laws 1995 PA 162, MCL 445.1851 TO 445.1864.~~

~~(4) The instrument shall be considered as recorded at the time so noted and shall be notice to all persons except the recorded landowner subject to subsection (2), of the liens, rights, and interests acquired by or involved in the proceedings. All subsequent owners or encumbrances shall take subject to the~~

1 ~~perfected liens, rights, or interests.~~

2 (3) ~~(5)~~—A person who is not exempt under subsection ~~(3)~~—(2)
3 who encumbers property through the recording of a ~~document~~ **AN**
4 **INSTRUMENT** listed under subsection ~~(2)~~—(1) without lawful cause
5 with the intent to harass or intimidate any person is liable for
6 the penalties set forth in section 2907a of the revised
7 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~
8 ~~being section 600.2907a of the Michigan Compiled Laws 1961 PA~~
9 **236, MCL 600.2907A.**

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. 1160 of the 94th Legislature is enacted
12 into law.