

# HOUSE BILL No. 5512

December 4, 2007, Introduced by Reps. Bieda, Dean, Rick Jones and Polidori and referred to the Committee on Intergovernmental, Urban and Regional Affairs.

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, 25, 27, 28, and 43 (MCL 565.24, 565.25, 565.27, 565.28, and 565.43), section 25 as amended by 1996 PA 526 and sections 28 and 43 as amended by 1992 PA 212, and by adding section 24a; and to repeal acts and parts of acts.

## 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<br>the land lies |        |          | To whom delivered<br>(after being recorded)<br>and date (of<br>delivery). | Fee<br>(Fees)<br>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.

(2) EACH INSTRUMENT DELIVERED TO A REGISTER SHALL BE ACCESSIBLE FOR PUBLIC REVIEW. ACCESSIBILITY MAY BE SATISFIED BY ANY OF THE FOLLOWING METHODS:

(A) PROVIDING THE INSTRUMENT INSCRIBED IN A TANGIBLE MEDIUM.

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

(C) PROVIDING 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 IN A TEMPORARY SEARCHABLE JOURNAL 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. A REASONABLE FEE, NOT TO EXCEED \$15.00 FOR EACH 15 MINUTES OR FRACTION THEREOF, PER NAME SEARCHED, MAY BE CHARGED FOR ANY SEARCH OR REVIEW OF ORIGINAL INSTRUMENTS.

(5) SUBSECTIONS (2) TO (4) DO NOT APPLY ONCE THE INSTRUMENT

1 IS INDEXED AS REQUIRED IN SECTION 28 OF THIS CHAPTER.

2 SEC. 24A. (1) THE REGISTER'S ASSIGNMENT OF A LIBER AND PAGE  
3 OR OTHER UNIQUE IDENTIFYING NUMBER IS PRIMA FACIE EVIDENCE THAT  
4 THE INSTRUMENT HAS SATISFIED ALL RECORDING REQUIREMENTS,  
5 INCLUDING THE PAYMENT OF FEES, AND HAS BEEN ACCEPTED FOR  
6 RECORDING. SUBJECT TO SECTION 26 OF THIS CHAPTER, A RECORDED  
7 INSTRUMENT IS NOTICE TO ALL PERSONS EXCEPT THE RECORDED LANDOWNER  
8 OF THE LIENS, RIGHTS, AND INTERESTS ACQUIRED BY OR INVOLVED IN  
9 THE PROCEEDINGS. ALL SUBSEQUENT OWNERS OR ENCUMBRANCES SHALL TAKE  
10 SUBJECT TO THE RECORDED LIENS, RIGHTS, OR INTERESTS.

11 (2) AN INSTRUMENT IS CONSIDERED TO BE RECORDED AT THE TIME  
12 AND DATE OF DELIVERY TO THE REGISTER IF THE INSTRUMENT HAS  
13 SATISFIED ALL RECORDING REQUIREMENTS, INCLUDING THE PAYMENT OF  
14 FEES.

15 (3) IF MORE THAN 1 DATE AND TIME OF DELIVERY APPEAR UPON AN  
16 INSTRUMENT, THE LATER DATE AND TIME CONTROLS IN ESTABLISHING THE  
17 PRIORITY OF THE INSTRUMENT UNLESS, WITHIN 90 DAYS AFTER THE DATE  
18 ALLEGED TO BE THE CORRECT DATE OF DELIVERY OF THE INSTRUMENT, A  
19 COURT ACTION IS COMMENCED TO ESTABLISH THE EARLIER TIME AND DATE  
20 OF DELIVERY AND A NOTICE OF LIS PENDENS PERTAINING TO THE REAL  
21 PROPERTY SUBJECT TO THE DISPUTE IS RECORDED.

22 ~~Sec. 25. (1) In the entry book of deeds, the register shall~~  
23 ~~enter all deeds of conveyance absolute in their terms, and not~~  
24 ~~intended as mortgages or securities, and all copies left as~~  
25 ~~cautions. In the entry book of mortgages the register shall enter~~  
26 ~~all mortgages and other deeds intended as securities, and all~~  
27 ~~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:

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

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

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

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

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

17 (i) A state or nationally chartered bank.

18 (ii) A state or federally chartered savings and loan  
19 association or savings bank.

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

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

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

1 (vi) A motor vehicle finance company subject to the motor  
2 vehicle sales finance act, ~~Act No. 27 of the Public Acts of the~~  
3 ~~Extra Session of 1950, being sections 492.101 to 492.141 of the~~  
4 ~~Michigan Compiled Laws 1950 (EX SESS) PA 27, MCL 492.101 TO~~  
5 ~~492.141~~, with net assets in excess of \$50,000,000.00.

6 (vii) A foreign bank.

7 (viii) A retirement fund regulated pursuant to state law, or a  
8 pension fund of a local unit of government or a pension fund  
9 regulated pursuant to federal law with net assets in excess of  
10 \$50,000,000.00.

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

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

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

19 (xii) A licensee under the mortgage brokers, lenders, and  
20 servicers licensing act, ~~Act No. 173 of the Public Acts of 1987,~~  
21 ~~being sections 445.1651 to 445.1684 of the Michigan Compiled Laws~~  
22 ~~1987 PA 173, MCL 445.1651 TO 445.1684.~~

23 (xiii) A holder under the home improvement finance act, ~~Act~~  
24 ~~No. 332 of the Public Acts of 1965, being sections 445.1101 to~~  
25 ~~445.1431 of the Michigan Compiled Laws 1965 PA 332, MCL 445.1101~~  
26 ~~TO 445.1431.~~

27 (xiv) A retail seller under the retail installment sales act,

1 ~~Act No. 224 of the Public Acts of 1966, being sections 445.851 to~~  
 2 ~~445.873 of the Michigan Compiled Laws 1966 PA 224, MCL 445.851 TO~~  
 3 ~~445.873.~~

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

8 (xvi) A licensee under the consumer financial services act,  
 9 ~~Act No. 161 of the Public Acts of 1988, being sections 487.2051~~  
 10 ~~to 487.2072 of the Michigan Compiled Laws 1988 PA 161, MCL~~  
 11 ~~487.2051 TO 487.2072.~~

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

15 (xviii) A regulated lender under the credit reform act, ~~Act~~  
 16 ~~No. 162 of the Public Acts of 1995, being sections 445.1851 to~~  
 17 ~~445.1864 of the Michigan Compiled Laws 1995 PA 162, MCL 445.1851~~  
 18 ~~TO 445.1864.~~

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

25 (3) ~~(5)~~ A person who is not exempt under subsection ~~(3)~~ (2)  
 26 who encumbers property through the recording of a document ~~AN~~  
 27 **INSTRUMENT** listed under subsection ~~(2)~~ (1) without lawful cause

1 with the intent to harass or intimidate any person is liable for  
 2 the penalties set forth in section 2907a of the revised  
 3 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~  
 4 ~~being section 600.2907a of the Michigan Compiled Laws 1961 PA~~  
 5 **236, MCL 600.2907A.**

6       Sec. 27. The register shall certify upon every instrument  
 7 ~~recorded by him,~~ **HE OR SHE RECORDS** the **DATE AND** time when it was  
 8 ~~received~~ **ACCEPTED FOR RECORDING, AFTER THE INSTRUMENT MET ALL**  
 9 **RECORDING REQUIREMENTS INCLUDING THE PAYMENT OF FEES,** and a  
 10 reference to the ~~book~~ **LIBER** and page, **OR OTHER UNIQUE IDENTIFYING**  
 11 **NUMBER,** where it is recorded.

12       Sec. 28. (1) Each register of deeds shall keep a ~~proper~~  
 13 ~~general~~ **PERMANENT** index ~~to each set of books in which he or she~~  
 14 ~~shall enter alphabetically the name of each party to each~~  
 15 ~~instrument recorded by the register of deeds, with a reference to~~  
 16 ~~the book and page where the instrument is recorded. In a county~~  
 17 ~~in which reproductions pursuant to the records media act are~~  
 18 ~~combined in 1 set of books, the register of deeds shall keep~~  
 19 ~~separate indexes of the instruments. The register of deeds shall~~  
 20 ~~also keep a separate index in which shall be entered daily a~~  
 21 ~~minute of all discharges of mortgages as the discharges are~~  
 22 ~~entered, whether by written discharge or entered upon the margin~~  
 23 ~~of the record, together with a reference to the volume and page~~  
 24 ~~where recorded, or entered upon the margin.~~ **OF RECORDED**  
 25 **INSTRUMENTS BY MEANS OF BOOKS OR COMPUTERIZATION OR A COMBINATION**  
 26 **OF THE TWO. THE INDEX SHALL INCLUDE THE FOLLOWING INFORMATION:**

27       **(A) LIBER AND PAGE, OR OTHER UNIQUE IDENTIFYING NUMBER.**

(B) INSTRUMENT TYPE.

(C) THE NAME OF EACH PARTY TO EACH INSTRUMENT.

(D) DATE RECORDED, HAVING MET ALL RECORDING REQUIREMENTS,  
INCLUDING PAYMENT OF FEES.

(E) LOCATION OF LAND; SECTION, TOWN AND RANGE, PLATTED  
DESCRIPTION, OR OTHER DESCRIPTION AUTHORIZED BY LAW.

(F) OTHER REFERENCE INFORMATION AS REQUIRED.

(2) Each **COMPUTERIZED** index ~~required by this act may be~~  
~~maintained wholly, or in part, by computerization of the index~~  
**SHALL BE MAINTAINED TO ALLOW FOR AN ALPHABETICAL SEARCH OF THE**  
**NAMES OF EACH PARTY TO EACH INSTRUMENT RECORDED BY THE REGISTER**  
**OF DEEDS.**

(3) Each computerized index shall be secured by a duplicate  
index maintained at a separate location from the primary index.

(4) The primary index shall be secured by a code, key, or  
other system designed to prohibit an unauthorized person from  
altering the index.

Sec. 43. Every certificate described in section 42 **OF THIS**  
**CHAPTER**, and the proof or acknowledgment of the certificate,  
shall be recorded at full length, and a reference shall be made  
to the ~~book~~-**LIBER** and page, **OR OTHER UNIQUE IDENTIFYING NUMBER**,  
containing the certificate, in the ~~minute~~-**MINUTES** of the  
discharge of the mortgage made by the register upon the mortgage.  
If the register of deeds is authorized by the board of  
commissioners to reproduce deeds, mortgages, maps, instruments,  
or writings, as provided in section 2 of ~~Act No. 105 of the~~  
~~Public Acts of 1964, being section 691.1102 of the Michigan~~

1 ~~Compiled Laws 1964 PA 105, MCL 691.1102~~, and the mortgage does  
2 not exist in a hard copy medium, it is not necessary for him or  
3 her to make reference to the ~~book-LIBER~~ and page containing the  
4 certificate on the ~~book-or-LIBER AND~~ page containing the  
5 mortgage. Instead, reference to the ~~book-LIBER~~ and page  
6 containing the certificate shall be made in the index to the  
7 ~~entry book-PERMANENT INDEX~~ of mortgages.

8       Enacting section 1. Section 26 of 1846 RS 65, MCL 565.26, is  
9 repealed.