

HOUSE BILL No. 4462

March 22, 2011, Introduced by Reps. Knollenberg, Tlaib, Barnett, Walsh, Liss, Cavanagh, Price, Slavens, Brunner and Nathan and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 248 and 249 (MCL 750.248 and 750.249), as
amended by 2008 PA 378, and by adding sections 248b and 249b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 248. (1) A person who falsely makes, alters, forges, or
2 counterfeits a public record, or a certificate, return, or
3 attestation of a clerk of a court, register of deeds, notary
4 public, township clerk, or any other public officer, in relation to
5 a matter in which the certificate, return, or attestation may be
6 received as legal proof, or a charter, ~~deed~~, will, testament, bond,
7 writing obligatory, letter of attorney, policy of insurance, bill
8 of lading, bill of exchange, promissory note, or an order,
9 acquittance of discharge for money or other property, or a waiver,
10 release, claim or demand, or an acceptance of a bill of exchange,

1 or indorsement, or assignment of a bill of exchange or promissory
2 note for the payment of money, or an accountable receipt for money,
3 goods, or other property with intent to injure or defraud another
4 person is guilty of a felony punishable by imprisonment for not
5 more than 14 years.

6 (2) This section does not apply to a scrivener's error.

7 (3) The venue in a prosecution under this section may be in
8 the county in which the forgery was performed; in a county in which
9 a false, forged, altered, or counterfeit record, ~~deed~~, instrument,
10 or other writing is uttered and published with intent to injure or
11 defraud; or in the county in which the rightful property owner
12 resides.

13 ~~—— (4) If in the proceedings resulting in a conviction under this~~
14 ~~section, or for any lesser included offense, the circuit court~~
15 ~~finds that the person made, altered, forged, or counterfeited a~~
16 ~~deed, discharge of mortgage, or other real estate document, the~~
17 ~~circuit court shall enter an order indicating that the document is~~
18 ~~invalid and requiring a copy of the invalid document and a~~
19 ~~certified copy of the order to be recorded in the office of the~~
20 ~~register of deeds of any county where the subject property is~~
21 ~~located, as provided in section 2935 of the revised judicature act~~
22 ~~of 1961, 1961 PA 236, MCL 600.2935. If the invalid document has~~
23 ~~previously been recorded, the prosecutor shall provide the circuit~~
24 ~~court with the liber and page number or unique identifying~~
25 ~~reference number of the invalid document, which shall be included~~
26 ~~in the order. The register of deeds shall make reference to the~~
27 ~~liber and page number or unique identifying reference number of the~~

~~invalid document in the index of the recorded documents. Any
recording fees incurred under this subsection shall be paid as
ordered by the court.~~

SEC. 248B. (1) A PERSON WHO FALSELY MAKES, ALTERS, FORGES, OR
COUNTERFEITS A DEED, A DISCHARGE OF MORTGAGE, OR A POWER OR LETTER
OF ATTORNEY OR OTHER DOCUMENT THAT AFFECTS AN INTEREST IN REAL
PROPERTY WITH INTENT TO INJURE OR DEFRAUD ANOTHER PERSON IS GUILTY
OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 14 YEARS.

(2) THIS SECTION DOES NOT APPLY TO A SCRIVENER'S ERROR.

(3) THE VENUE IN A PROSECUTION UNDER THIS SECTION MAY BE IN
THE COUNTY IN WHICH THE FORGERY WAS PERFORMED; IN A COUNTY IN WHICH
THE FALSE, ALTERED, FORGED, OR COUNTERFEIT DOCUMENT IS UTTERED AND
PUBLISHED WITH INTENT TO INJURE OR DEFRAUD; OR IN THE COUNTY IN
WHICH THE RIGHTFUL PROPERTY OWNER RESIDES.

(4) IN PROCEEDINGS THAT RESULT IN A CONVICTION UNDER THIS
SECTION OR FOR ANY LESSER INCLUDED OFFENSE, THE CIRCUIT COURT SHALL
ENTER AN ORDER STATING THAT THE FALSE, ALTERED, FORGED, OR
COUNTERFEIT DOCUMENT IS INVALID AND REQUIRE THAT A CERTIFIED COPY
OF THE COURT ORDER WITH THE INVALID DOCUMENT, IF NOT PREVIOUSLY
RECORDED, BE ATTACHED AND RECORDED IN THE OFFICE OF THE REGISTER OF
DEEDS OF THE COUNTY WHERE THE SUBJECT PROPERTY OR PART OF THE
PROPERTY IS LOCATED, AS PROVIDED IN SECTION 2935 OF THE REVISED
JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2935. IF THE INVALID
DOCUMENT HAS PREVIOUSLY BEEN RECORDED, THE PROSECUTOR SHALL PROVIDE
THE CIRCUIT COURT WITH THE LIBER AND PAGE NUMBER OR UNIQUE
IDENTIFYING REFERENCE NUMBER OF THE INVALID DOCUMENT, WHICH SHALL
BE INCLUDED IN THE ORDER. THE REGISTER OF DEEDS SHALL MAKE

1 REFERENCE TO THE LIBER AND PAGE NUMBER OR UNIQUE IDENTIFYING
2 REFERENCE NUMBER OF THE INVALID DOCUMENT IN THE INDEX OF THE
3 RECORDED DOCUMENTS. ANY RECORDING FEES INCURRED UNDER THIS
4 SUBSECTION SHALL BE PAID AS ORDERED BY THE COURT.

5 Sec. 249. (1) A person who utters and publishes as true a
6 false, forged, altered, or counterfeit record, ~~deed,~~ instrument, or
7 other writing listed in section 248 knowing it to be false,
8 altered, forged, or counterfeit with intent to injure or defraud is
9 guilty of a felony punishable by imprisonment for not more than 14
10 years.

11 (2) This section does not apply to a scrivener's error.

12 ~~—— (3) If in the proceedings resulting in a conviction under this~~
13 ~~section, or for any lesser included offense, the circuit court~~
14 ~~finds that the person uttered and published as true a false,~~
15 ~~forged, altered, or counterfeit deed, discharge of mortgage, or~~
16 ~~other real estate document, the circuit court shall enter an order~~
17 ~~indicating that the document is invalid and requiring a copy of the~~
18 ~~invalid document and a certified copy of the order to be recorded~~
19 ~~in the office of the register of deeds of any county where the~~
20 ~~subject property is located, as provided in section 2935 of the~~
21 ~~revised judicature act of 1961, 1961 PA 236, MCL 600.2935. If the~~
22 ~~invalid document has previously been recorded, the prosecutor shall~~
23 ~~provide the circuit court with the liber and page number or unique~~
24 ~~identifying reference number of the invalid document, which shall~~
25 ~~be included in the order. The register of deeds shall make~~
26 ~~reference to the liber and page number or unique identifying~~
27 ~~reference number of the invalid document in the index of the~~

~~recorded documents. Any recording fees incurred under this
subsection shall be paid as ordered by the court.~~

SEC. 249B. (1) A PERSON WHO UTTERS AND PUBLISHES AS TRUE A
FALSE, FORGED, ALTERED, OR COUNTERFEIT DEED OR OTHER DOCUMENT
LISTED IN SECTION 248B KNOWING IT TO BE FALSE, FORGED, ALTERED, OR
COUNTERFEIT WITH INTENT TO INJURE OR DEFRAUD IS GUILTY OF A FELONY
PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 14 YEARS.

(2) THIS SECTION DOES NOT APPLY TO A SCRIVENER'S ERROR.

(3) IN PROCEEDINGS THAT RESULT IN A CONVICTION UNDER THIS
SECTION OR FOR ANY LESSER INCLUDED OFFENSE, THE CIRCUIT COURT SHALL
ENTER AN ORDER STATING THAT THE FALSE, FORGED, ALTERED, OR
COUNTERFEIT DOCUMENT IS INVALID AND REQUIRING THAT A COPY OF THE
INVALID DOCUMENT AND A CERTIFIED COPY OF THE ORDER BE RECORDED IN
THE OFFICE OF THE REGISTER OF DEEDS OF THE COUNTY WHERE THE SUBJECT
PROPERTY OR PART OF THE PROPERTY IS LOCATED, AS PROVIDED IN SECTION
2935 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
600.2935. IF THE INVALID DOCUMENT HAS PREVIOUSLY BEEN RECORDED, THE
PROSECUTOR SHALL PROVIDE THE CIRCUIT COURT WITH THE LIBER AND PAGE
NUMBER OR UNIQUE IDENTIFYING REFERENCE NUMBER OF THE INVALID
DOCUMENT, WHICH SHALL BE INCLUDED IN THE ORDER. THE REGISTER OF
DEEDS SHALL MAKE REFERENCE TO THE LIBER AND PAGE NUMBER OR UNIQUE
IDENTIFYING REFERENCE NUMBER OF THE INVALID DOCUMENT IN THE INDEX
OF THE RECORDED DOCUMENTS. ANY RECORDING FEES INCURRED UNDER THIS
SUBSECTION SHALL BE PAID AS ORDERED BY THE COURT.