

HOUSE BILL No. 4640

April 30, 2013, Introduced by Reps. Pettalia and Lane and referred to the Committee on Local Government.

A bill to amend 1915 PA 123, entitled

"An act to provide for the recording and use in evidence of affidavits affecting real property; and to provide a penalty for the making of false affidavits,"

by amending section 1a (MCL 565.451a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1a. An affidavit stating facts relating to any of the
2 following matters ~~which~~ **THAT** may affect the title to real property
3 in this state **AND** made by any person having knowledge of the facts
4 ~~or by any person~~ **AND** competent to testify concerning ~~such~~ **THOSE**
5 facts in open court ~~—~~ may be recorded in the office of the register
6 of deeds of the county where the real property is situated:

7 (a) Birth, age, sex, marital status, death, name, residence,
8 identity, capacity, relationship, family history, heirship,

1 homestead status and service in the armed forces of parties named
2 in deeds, wills, mortgages and other instruments affecting real
3 property. †

4 (b) Knowledge of the happening of any condition or event ~~which~~
5 **THAT** may terminate an estate or interest in real property. †

6 (c) Knowledge of surveyors ~~duly~~-registered under the laws of
7 this state with respect to the existence and location of monuments
8 and physical boundaries, such as fences, streams, roads, and rights
9 of way of real property. †

10 (d) Knowledge of ~~such registered~~ surveyors **REGISTERED UNDER**
11 **THE LAWS OF THIS STATE** reconciling conflicting and ambiguous
12 descriptions in conveyances with descriptions in a regular chain of
13 title. †

14 (e) Knowledge of facts incident to possession or the actual,
15 open, notorious, and adverse possession of real property. †~~or~~

16 (f) Knowledge of the purchaser, or ~~in the case of~~ **IF THE**
17 **PURCHASER IS** a corporation, of its president, vice president,
18 secretary, or other ~~duly~~-authorized representative acting in a
19 fiduciary or representative capacity, of real property sold upon
20 foreclosure or conveyed in lieu of foreclosure of a trust mortgage
21 or deed of trust securing an issue of bonds or other evidences of
22 indebtedness, or of any mortgage, land contract, or other security
23 instrument held by a fiduciary or other representative, as to the
24 authority of ~~such~~ **THE** purchaser to purchase the real property and
25 as to the terms and conditions upon which the real property is to
26 be held and disposed of.

27 **(G) KNOWLEDGE OF A PERSON WITH RESPECT TO AN UNRECORDED**

1 CONVEYANCE, AS DEFINED IN SECTION 35 OF 1846 RS 65, MCL 565.35,
2 ACCOMPANIED BY A COPY OF THE UNRECORDED CONVEYANCE. THIS
3 SUBDIVISION APPLIES TO ANY AFFIDAVIT REGARDING CONVEYANCES WITHIN
4 ITS SCOPE, EVEN IF THE AFFIDAVIT WAS RECORDED BEFORE THE EFFECTIVE
5 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION. HOWEVER, A
6 COPY OF AN ORIGINAL INSTRUMENT AND AFFIDAVIT SHALL NOT BE RECEIVED
7 AND RECORDED BY THE REGISTER OF DEEDS ON OR AFTER THE EFFECTIVE
8 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION UNLESS THE
9 AFFIDAVIT STATES THAT THE ORIGINAL INSTRUMENT HAS BEEN LOST OR
10 DESTROYED AND THAT, TO THE BEST OF AFFIANT'S KNOWLEDGE, THE
11 ORIGINAL INSTRUMENT WAS DELIVERED FROM THE GRANTOR TO THE GRANTEE,
12 OR FROM THE MORTGAGOR TO THE MORTGAGEE, AS APPLICABLE. AN AFFIDAVIT
13 RECORDED UNDER THIS SUBDIVISION ON OR AFTER THE EFFECTIVE DATE OF
14 THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION SHALL BE INDEXED
15 UNDER THE NAMES OF THE PARTIES TO THE UNRECORDED CONVEYANCE AND
16 NEED NOT BE INDEXED UNDER THE NAME OF THE AFFIANT.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. ____ or House Bill No. 4638 (request no.
19 01205'13) of the 97th Legislature is enacted into law.