

# HOUSE BILL No. 5363

December 13, 2017, Introduced by Rep. Schor and referred to the Committee on Financial Services.

A bill to amend 1879 PA 237, entitled

"An act to provide for the execution, acknowledgment, and recording of contracts for the sale of land,"

by amending the title and sections 1 and 6 (MCL 565.351 and 565.356), section 1 as amended by 2002 PA 20 and section 6 as amended by 2002 PA 147, and by adding sections 1a, 1b, and 4a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### 1 TITLE

2 An act to **PROHIBIT THE INCLUSION OF CERTAIN PROVISIONS IN**  
3 **CONTRACTS FOR THE SALE OF LAND; TO** provide for the execution,  
4 acknowledgment, and recording of **LAND** contracts; ~~for the sale of~~  
5 ~~land.~~ **TO LIMIT MORTGAGES OF LAND THAT HAS BEEN SOLD UNDER A LAND**  
6 **CONTRACT; AND TO PROVIDE FOR LAND CONTRACT MORTGAGES.**

7 Sec. 1. ~~A contract for the sale of land or any interest in~~  
8 ~~that land shall be executed by the vendor named in the contract,~~

1 ~~and acknowledged before any judge or before any notary public~~  
2 ~~within this state, and the officer taking the acknowledgment shall~~  
3 ~~endorse a certificate of the acknowledgment and the date of making~~  
4 ~~the acknowledgment under his or her hand.~~ THIS ACT SHALL BE KNOWN  
5 AND MAY BE CITED AS THE "LAND CONTRACT ACT".

6 SEC. 1A. (1) A RESIDENTIAL LAND CONTRACT MUST NOT INCLUDE A  
7 PROVISION THAT DOES 1 OR MORE OF THE FOLLOWING:

8 (A) PROVIDES FOR A CONFESSION OF JUDGMENT BY A PARTY.

9 (B) WAIVES OR ALTERS A PARTY'S RIGHT TO DEMAND A TRIAL BY JURY  
10 OR ANY OTHER RIGHT OF NOTICE OR PROCEDURE REQUIRED BY LAW IN A  
11 JUDICIAL PROCEEDING ARISING UNDER THE LAND CONTRACT.

12 (C) PROVIDES THAT A PARTY IS LIABLE FOR LEGAL COSTS OR  
13 ATTORNEY FEES INCURRED BY ANOTHER PARTY, IN CONNECTION WITH A  
14 DISPUTE ARISING UNDER THE LAND CONTRACT, IN EXCESS OF COSTS OR FEES  
15 SPECIFICALLY PERMITTED BY STATUTE.

16 (D) VIOLATES THE MICHIGAN CONSUMER PROTECTION ACT, 1976 PA  
17 331, MCL 445.901 TO 445.922.

18 (E) PROVIDES THAT PROPERTY TAXES FOR THE PROPERTY THAT IS THE  
19 SUBJECT OF THE LAND CONTRACT WILL BE ENTERED IN THE NAME OF THE  
20 VENDOR, OR THAT THE VENDEE WILL PAY TAXES TO THE VENDOR AS PART OF  
21 THE LAND CONTRACT PAYMENTS.

22 (F) PROVIDES THAT THE LAND CONTRACT WILL CONVERT TO A LEASE ON  
23 DEFAULT OR OCCURRENCE OF ANY OTHER CONDITION.

24 (2) A PROVISION OR CLAUSE OF A RESIDENTIAL LAND CONTRACT THAT  
25 VIOLATES THIS SECTION IS VOID.

26 SEC. 1B. A CONTRACT FOR THE SALE OF LAND OR ANY INTEREST IN  
27 LAND MUST BE EXECUTED BY THE VENDOR NAMED IN THE CONTRACT AND

1 ACKNOWLEDGED BEFORE A JUDGE OR A NOTARY PUBLIC IN THIS STATE. THE  
 2 JUDGE OR NOTARY PUBLIC SHALL ENDORSE A CERTIFICATE OF THE  
 3 ACKNOWLEDGMENT AND THE DATE OF THE ACKNOWLEDGMENT.

4 SEC. 4A. (1) A VENDOR SHALL NOT ENTER INTO OR PERMIT A REAL  
 5 ESTATE MORTGAGE OF PROPERTY THAT IS THE SUBJECT OF A RESIDENTIAL  
 6 LAND CONTRACT IF THE AMOUNT OF THE INDEBTEDNESS SECURED BY THE  
 7 MORTGAGE IS GREATER THAN THE AMOUNT DUE ON THE LAND CONTRACT AT THE  
 8 TIME OF THE MORTGAGE.

9 (2) A VENDOR SHALL NOT ENTER INTO OR PERMIT A REAL ESTATE  
 10 MORTGAGE OF PROPERTY THAT IS THE SUBJECT OF A RESIDENTIAL LAND  
 11 CONTRACT IF THE INDEBTEDNESS THAT IS SECURED BY THE MORTGAGE WILL  
 12 NOT, BY THE TERMS OF THE MORTGAGE OR THE NOTE OR CONTRACT SECURED  
 13 BY THE MORTGAGE, BE REPAYED ON OR BEFORE THE CONCLUSION OF THE TERM  
 14 OF THE LAND CONTRACT.

15 Sec. 6. As used in this act:

16 (a) "Assignee" means assignee of the vendor named in a land  
 17 contract, a succeeding assignee, or a land contract mortgagee who  
 18 became the absolute holder of the land contract as a result of  
 19 security enforcement procedures.

20 (b) "Grantee" means grantee of the vendor named in a land  
 21 contract, a succeeding grantee, or a grantee ~~pursuant to~~ **UNDER** a  
 22 ~~mortgage-foreclosure of a mortgage upon~~ **OF** the land ~~but~~ **THAT WAS**  
 23 subordinate to the land contract.

24 (c) "Land contract mortgage" means a mortgage granted by a  
 25 vendor or a vendee.

26 (d) "Land contract mortgagee" means the holder of a land  
 27 contract mortgage granted by a vendor or vendee, or his or her

1 heirs, successors, or assigns.

2 (e) "Nonmortgaging vendee" means a vendee who has not entered  
3 into a land contract mortgage granted by his or her vendor.

4 (f) "Nonmortgaging vendor" means a vendor who has not entered  
5 into a land contract mortgage granted by his or her vendee.

6 **(G) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,**  
7 **ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.**

8 **(H) ~~(g)~~** "Real estate mortgage" means a mortgage granted ~~upon~~  
9 **ON** an interest in real property, other than a mortgage ~~upon~~ **ON** a  
10 vendor's or vendee's interest in a land contract unless the vendor  
11 and the vendee join in or subject their respective interests to a  
12 single mortgage. A land contract mortgage is not a real estate  
13 mortgage.

14 **(I) "RESIDENTIAL LAND CONTRACT" MEANS A CONTRACT FOR A DEED TO**  
15 **CONVEY AN INTEREST IN REAL PROPERTY COMPRISED OF 1 TO 4 RESIDENTIAL**  
16 **UNITS IN WHICH THE PURCHASE PRICE IS TO BE PAID IN 4 OR MORE**  
17 **INSTALLMENTS AND A PROMISSORY NOTE OR MORTGAGE IS NOT INVOLVED**  
18 **BETWEEN THE SELLER AND THE BUYER.**

19 **(J) ~~(h)~~** "Third parties" means persons ~~or entities~~ other than  
20 the vendor, vendee, nonmortgaging vendor, nonmortgaging vendee,  
21 assignee, grantee, or land contract mortgagee, ~~who~~ **THAT** have or  
22 claim an interest in or encumbrance ~~upon~~ **ON** real property or a  
23 vendor's or vendee's interest ~~which~~ **THAT** is subject to a land  
24 contract mortgage.

25 **(K) ~~(i)~~** "Vendee" means the vendee named in the land contract  
26 and the vendee's heirs, successors, or assigns.

27 **(L) ~~(j)~~** "Vendor" means the vendor named in the land contract

1 and the vendor's heirs, successors, or assigns.

2 Enacting section 1. Sections 1a and 4a of 1879 PA 237, as  
3 added by this amendatory act, only apply to land contracts entered  
4 into on or after the effective date of this amendatory act.