

**Chapter 565**  
**CONVEYANCES OF REAL PROPERTY**  
**Revised Statutes of 1846**  
**R.S. of 1846**

Chapter 65  
CHAPTER 65. OF ALIENATION BY DEED, AND THE PROOF AND RECORDING OF CONVEYANCES, AND THE CANCELING OF MORTGAGES.

**565.1 Conveyance of land made by deed.**

Sec. 1.

Conveyances of lands, or of any estate or interest therein, may be made by deed, signed and sealed by the person from whom the estate or interest is intended to pass, being of lawful age, or by his lawful agent or attorney, and acknowledged or proved and recorded as directed in this chapter, without any other act or ceremony whatever.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2720 ;-- CL 1871, 4203 ;-- How. 5652 ;-- CL 1897, 8956 ;-- CL 1915, 11688 ;-- CL 1929, 13278 ;-- CL 1948, 565.1

**Former Law:** See Act of August 1805; Woodward Code, Secs. 87-90; Terr. Laws, vol. 1, 38; Cass Code, Terr. Laws, vol. 1, 146; Act of March 27, 1820, Terr. Laws, vol. 1, 516; Act of April 12, 1827; R.L. 1827, p. 258; R.L. 1833, p. 379; Terr. Laws, vol. 2, 361; R.S. 1838, p. 257 as amended by Act 115 of 1839, Sec. 19, p. 219, Act 108 of 1840, p. 166; Act 5 of 1843, p. 6.

**565.3 Quit claim deed; estate passed.**

Sec. 3.

A deed of quit claim and release, of the form in common use, shall be sufficient to pass all the estate which the grantor could lawfully convey by a deed of bargain and sale.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2722 ;-- CL 1871, 4205 ;-- How. 5653 ;-- CL 1897, 8957 ;-- CL 1915, 11689 ;-- CL 1929, 13279 ;-- CL 1948, 565.3

**565.4 Conveyance of greater estate than possessed; effect.**

Sec. 4.

A conveyance made by a tenant for life or years, purporting to grant a greater estate than he possessed or could lawfully convey, shall not work a forfeiture of his estate, but shall pass to the grantee all the estate which such tenant could lawfully convey.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2723 ;-- CL 1871, 4206 ;-- How. 5654 ;-- CL 1897, 8958 ;-- CL 1915, 11690 ;-- CL 1929, 13280 ;-- CL 1948, 565.4

**565.5 Covenants; implication in conveyance.**

Sec. 5.

No covenant shall be implied in any conveyance of real estate, except oil and gas leases, whether such conveyance contain special covenants or not.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2724 ;-- CL 1871, 4207 ;-- How. 5655 ;-- CL 1897, 8959 ;-- CL 1915, 11691 ;-- Am. 1929, Act 168, Eff. Aug. 28, 1929 ;-- CL 1929, 13281 ;-- CL 1948, 565.5

**565.6 Covenants; implication in mortgage.**

Sec. 6.

No mortgage shall be construed as implying a covenant for the payment of the sum thereby intended to be secured; and where there shall be no express covenant for such payment contained in the mortgage, and no bond or other separate instrument to secure such payment, shall have been given, the remedies of the mortgagee shall be confined to the lands mentioned in the mortgage.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2725 ;-- CL 1871, 4208 ;-- How. 5656 ;-- CL 1897, 8960 ;-- CL 1915, 11692 ;-- CL 1929, 13282 ;-- CL 1948, 565.6

**565.7 Conveyance of land adversely possessed; validity.**

Sec. 7.

No grant or conveyance of lands or interest therein, shall be void for the reason that, at the time of the execution thereof such lands shall be in the actual possession of another claiming adversely.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2726 ;-- CL 1871, 4209 ;-- How. 5657 ;-- CL 1897, 8961 ;-- CL 1915, 11693 ;-- CL 1929, 13283 ;-- CL 1948, 565.7

**565.8 Deeds; execution; witnesses; acknowledgment; endorsement; validity and legality of certain acknowledgments and recordings of deeds; recorded deed lacking 1 or more witnesses.**

Sec. 8.

Deeds executed within this state of lands, or any interest in lands, shall be acknowledged before any judge, clerk of a court of record, or notary public within this state. The officer taking the acknowledgment shall endorse on the deed a certificate of the acknowledgment, and the true date of taking the acknowledgment, under his or her hand. Any deed that was acknowledged before any county clerk or clerk of any circuit court, before September 18, 1903, and the acknowledgment of the deed, and, if recorded, the record of the deed, shall be as valid for all purposes so far as the acknowledgment and record are concerned, as if the deed had been acknowledged before any other officer named in this section, and the legality of the acknowledgment and record shall not be questioned in any court or place. If a deed has been recorded that lacks 1 or more witnesses and the deed has been of record for a period of 10 years or more, and is otherwise eligible to record, the record of the deed shall be effectual for all purposes of a legal record and the record of the deed or a transcript of the record may be given in evidence in all cases and the deed shall be as valid and effectual as if it had been duly executed in compliance with this section.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2727 ;-- CL 1871, 4210 ;-- How. 5658 ;-- CL 1897, 8962 ;-- Am. 1903, Act 117, Eff. Sept. 15, 1903 ;-- Am. 1905, Act 103, Imd. Eff. May 10, 1905 ;-- CL 1915, 11694 ;-- CL 1929, 13284 ;-- Am. 1937, Act 162, Imd. Eff. July 9, 1937 ;-- CL 1948, 565.8 ;-- Am. 1980, Act 488, Imd. Eff. Jan. 21, 1981 ;-- Am. 2002, Act 23, Imd. Eff. Mar. 4, 2002

**Compiler's Notes:** Section 2 of Act 488 of 1980 provides: "This amendatory act shall not affect any instrument validly executed and acknowledged before the effective date of this amendatory act."

**Former Law:** By the act of August 29, 1805, the clerk of every court was authorized to record all deeds and writings which were acknowledged or proved before such court, or any judge thereof, or any justice of the peace, or any notary public. If the party did not reside in Michigan the acknowledgment or proof was to be before any court of law, or the mayor or any chief magistrate of any city, town, or corporation in which the party shall dwell, certified by such court, mayor, or magistrate, in the manner such acts are usually authenticated by them. Woodward Code, p. 52, Secs. 87 and 89; Cass Code, p. 45; Terr. Laws, vol. 1, p. 38. Act of Sept. 16, 1810; Terr. Laws, vol. 1, p. 189, authorizes justices of the peace to take acknowledgments. By the act of 1820, deeds were required to be signed and sealed by the parties, and acknowledged or proved by one or more of the subscribing witnesses thereto, before one of the judges of the supreme court, or one of the justices of any county court, a notary public, or justice of the peace. Code of 1820, p. 157; Terr. Laws, vol. 1, p. 516. Deeds executed in any other territory, state, or country, were required to be acknowledged or proved and certified according to the laws and usages of such territory, state, or country. The provisions of the act of 1820 were substantially re-enacted in 1827, and continued in force until August 31, 1838. Revision of 1827, p. 258, and 1833, p. 279; Terr. Laws, vol. 2, p. 361. By the R.S. 1838, p. 257, acknowledgments might be made before any judge of any court of record, or before any notary public or justice of the peace within the state or of the United States, or in any foreign country, or before any minister or consul of the United States in any foreign country. And provision was made for proving deeds before a court of record, in case the grantor should die or depart from the state without having acknowledged the same. R.S. 1838, as amended by Act 115 of 1839, Sec. 17, p. 219, required two witnesses. R.S. 1838 required no witnesses to a deed. By Act 108 of 1840, p. 166, deeds might be acknowledged before a justice of the peace, judge of the circuit, district, or supreme courts of the state, or notary public, or master in chancery. If executed by a person residing in any other state or territory, the deed was required to be executed according to the laws of such state or territory. If executed by a person residing in a foreign country, it might be executed according to the laws of such country, and acknowledged before a minister plenipotentiary, consul, or charge d'affaires of the United States. This act was in force until repealed by the R.S. 1846. For acts respecting conveyances by the governor and judges, and by the mayor, recorder, and aldermen of Detroit, see Laws of 1834, p. 38; Act 47 of 1844, p. 60, as amended by Act 108 of 1846, p. 156; and Act 228 of 1850, p. 232.

#### 565.9 Execution of deed in another state; governing law, acknowledgment.

Sec. 9.

If any such deed shall be executed in any other state, territory or district of the United States, such deed may be executed according to the laws of such state, territory or district, and the execution thereof may be acknowledged before any judge of a court of record, notary public, justice of the peace, master in chancery or other officer authorized by the laws of such state, territory or district to take the acknowledgment of deeds therein, or before any commissioner appointed by the governor of this state for such purpose.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2728 ;-- CL 1871, 4211 ;-- How. 5659 ;-- CL 1897, 8963 ;-- CL 1915, 11695 ;-- CL 1929, 13285 ;-- CL 1948, 565.9

**Former Law:** See section 2 of Act 108 of 1840.

#### 565.10 Execution of deed in another state; seal of officer, certificate; record of prior deeds as evidence.

Sec. 10.

In the cases provided for in the last preceding section unless the acknowledgment be taken before a commissioner appointed by the governor of this state for that purpose the officer taking such acknowledgment shall attach thereto the seal of his office, and if such acknowledgment be taken before a justice of the peace or other officer having no seal of office, such deed or other conveyance or instrument shall have attached thereto a certificate of the clerk or other proper certifying officer of a court of record of the county or district, or of the secretary of the state or territory within which such acknowledgment was taken under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was, at the date thereof, such officer as he is therein represented to be, and that he believes the signature of such person to such certificate of acknowledgment to be genuine, and that the deed is executed and acknowledged according to the laws of such state, territory or district. Whenever any deed or other instrument affecting the title to land, executed, acknowledged and authenticated in accordance with this section and the last preceding section, has been heretofore recorded in the proper county, such record, or a certified transcript thereof shall be prima facie evidence of the due execution of such instrument to the same extent as if it had been authenticated as required by the statute in force at the time such instrument was recorded.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2729 ;-- CL 1871, 4212 ;-- Am. 1875, Act 215, Eff. Aug. 3, 1875 ;-- How. 5660 ;-- Am. 1891, Act 112, Eff. Oct. 2, 1891 ;-- Am. 1893, Act 137, Eff. Aug. 28, 1893 ;-- CL 1897, 8964 ;-- CL 1915, 11696 ;-- CL 1929, 13286 ;-- CL 1948, 565.10

**Former Law:** The earlier acts did not require any clerk's certificate. Such certificate first became necessary May 20, 1839. Amendatory Act 115 of 1839, Sec. 34, p. 219, to R.S. 1838, which took effect 30 days thereafter, provided that "no register of deeds shall record any deed executed out of this state, unless there shall be attached thereto the official certificate of the proper certifying officer, showing that the officer taking the acknowledgment of such deed is such officer as by his certificate of acknowledgment he purports to be, duly commissioned and qualified." Act 108 of 1840, p. 166, which took effect Apr. 1, 1840, required that when the deed was executed in any other state or territory it should have attached thereto a certificate of the proper county clerk, under the seal of his office, that such deed was executed according to the laws of such state or territory. Act 5 of 1843, p. 6, effective Feb. 15, 1843, required that when the deed was executed in any other state or territory it should have attached thereto a certificate of the clerk or proper certifying officer of any court of record in such state or territory, under the seal of his office, that such deed was executed and acknowledged according to the laws of such state or territory. This provision continued in force until R.S. 1846.

#### 565.11 Execution of deed in foreign country; governing law; acknowledgment; certificate, seal; validation of certain deeds; record as evidence.

Sec. 11.

If such deed be executed in any foreign country it may be executed according to the laws of such country, and the execution thereof may be acknowledged before any notary public therein or before any minister plenipotentiary, minister extraordinary, minister resident, charge d'affaires, commissioner, or consul of the United States, appointed to reside therein; which acknowledgment shall be certified thereon by the officer taking the same under his hand, and if taken before a notary public his seal of office shall be affixed to such certificate: Provided, That all deeds of land situated within this state, heretofore or hereafter made in any foreign country, and executed in the presence of 2 witnesses, who shall have subscribed their names to the same as such, and the execution thereof shall have been acknowledged by the persons executing the same before any 1 of the officers authorized by this section to take such acknowledgment, and such acknowledgment shall have been certified thereon, as above required, shall be deemed between the parties thereto and all parties claiming under or through them, as valid and effectual to convey the legal estate of the premises therein described; and whenever such deed has been recorded in the office of the register of deeds of the proper county such record shall be effectual for all purposes of a legal record, and the record of such deed, or a transcript thereof, may be given in evidence as in other cases: Provided, That nothing herein contained shall impair the rights of any person under a purchase heretofore made in good faith and on valuable consideration.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2730 ;-- CL 1871, 4213 ;-- How. 5661 ;-- Am. 1889, Act 217, Eff. Oct. 2, 1889 ;-- Am. 1889, Act 248, Imd. Eff. July 3, 1889 ;-- CL 1897, 8965 ;-- CL 1915, 11697 ;-- CL 1929, 13287 ;-- CL 1948, 565.11

#### 565.13 Conveyance by nonresident married person; effect; procedure.

Sec. 13.

When a married person not residing in this state joins with his or her spouse in a conveyance of real estate situated within this state, the conveyance shall have the same effect as if he or she were not married, and the acknowledgment or proof of the execution of the conveyance by him or her may be the same as if he or she were not married.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2732 ;-- CL 1871, 4215 ;-- How. 5663 ;-- CL 1897, 8968 ;-- CL 1915, 11700 ;-- CL 1929, 13288 ;-- CL 1948, 565.13 ;-- Am. 1983, Act 212, Imd. Eff. Nov. 11, 1983

**565.14 Deed; failure to acknowledge; proof by witness of execution.**

Sec. 14.

When any grantor shall die, or depart from, or reside out of this state, not having acknowledged his deed, the due execution thereof may be proved by any competent subscribing witness thereto, before any court of record in this state.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2733 ;-- CL 1871, 4216 ;-- How. 5664 ;-- CL 1897, 8969 ;-- CL 1915, 11701 ;-- CL 1929, 13289 ;-- CL 1948, 565.14

**565.15 Deed; failure to acknowledge; proof of handwriting where witnesses are unobtainable.**

Sec. 15.

If all the subscribing witnesses to such deed shall also be dead or out of this state, the same may be proved before any court of record in this state, by proving the handwriting of the grantor, and of any subscribing witness thereto.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2734 ;-- CL 1871, 4217 ;-- How. 5665 ;-- CL 1897, 8970 ;-- CL 1915, 11702 ;-- CL 1929, 13290 ;-- CL 1948, 565.15

**565.16 Deed; refusal to acknowledge; application to circuit court; summons to grantor.**

Sec. 16.

If any grantor residing in this state shall refuse to acknowledge his or her deed, the grantee or any person claiming under him or her may apply to the circuit court in the county where the land lies, or where the grantor or any subscribing witness to the deed resides, which shall issue a summons to the grantor to appear at a certain time and place before the court, to hear the testimony of the subscribing witnesses to the deed; and the summons with a copy of the deed annexed shall be served at least 7 days before the time therein assigned for proving the deed.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2735 ;-- CL 1871, 4218 ;-- How. 5666 ;-- CL 1897, 8971 ;-- CL 1915, 11703 ;-- CL 1929, 13291 ;-- CL 1948, 565.16 ;-- Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991

**565.17 Deed; proof of execution; certificate of court.**

Sec. 17.

At the time mentioned in the summons, or at any time to which the hearing may be adjourned, the due execution of the deed may be proved by the testimony of 1 or more of the subscribing witnesses; and if proved to the satisfaction of the court, it shall certify the same, and in the certificate he or she shall note the presence or absence of the grantor, as the fact may be.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2736 ;-- CL 1871, 4219 ;-- How. 5667 ;-- CL 1897, 8972 ;-- CL 1915, 11704 ;-- CL 1929, 13292 ;-- CL 1948, 565.17 ;-- Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991

**565.18 Deed; refusal to acknowledge; proof of execution by proving handwriting.**

Sec. 18.

If any grantor residing in this state shall refuse to acknowledge his deed, and the subscribing witnesses thereto shall all be dead, or out of the state, it may be proved before any court of record in this state, by proving the handwriting of the grantor, or of any subscribing witness; the said court first summoning the grantor for the purpose, in the manner before provided in this chapter.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2737 ;-- CL 1871, 4220 ;-- How. 5668 ;-- CL 1897, 8973 ;-- CL 1915, 11705 ;-- CL 1929, 13293 ;-- CL 1948, 565.18

**565.19 Subscribing witnesses; subpoenas for attendance.**

Sec. 19.

The court before whom any deed may be presented to be proved, as provided by this act, may issue subpoenas to the subscribing witnesses or others, as the case may require, to appear and testify touching the execution of the deed. The subpoenas may be served in any part of this state.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2738 ;-- CL 1871, 4221 ;-- How. 5669 ;-- CL 1897, 8974 ;-- CL 1915, 11706 ;-- CL 1929, 13294 ;-- CL 1948, 565.19 ;-- Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991

**565.20 Subscribing witnesses; refusal to appear or testify; civil liability; contempt; penalty.**

Sec. 20.

Every person who being served with a subpoena under this act, shall without reasonable cause, refuse or neglect to appear, or appearing shall refuse to answer on oath, shall be liable to the injured party in the sum of 100 dollars damages, and for further damages as the party may sustain, and may also be committed to prison for contempt by the court who issued the subpoena, there to remain until he or she shall submit to answer upon oath.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2739 ;-- CL 1871, 4222 ;-- How. 5670 ;-- CL 1897, 8975 ;-- CL 1915, 11707 ;-- CL 1929, 13295 ;-- CL 1948, 565.20 ;-- Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991

**565.21 Unacknowledged deed; filing of copy by person interested; effect.**

Sec. 21.

A person interested in a deed that is not acknowledged may at any time before or during an application to the circuit court file in the office of the register of deeds of the county where the lands are situated, a copy of the deed compared with the original by the register, which shall in the case of proceedings before a court of record, for the space of 10 days after the first day of the next term of the court, have the same effect as the recording of the deed, if the deed shall, within that time be duly proved and recorded.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2740 ;-- CL 1871, 4223 ;-- How. 5671 ;-- CL 1897, 8976 ;-- CL 1915, 11708 ;-- CL 1929, 13296 ;-- CL 1948, 565.21 ;-- Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991

#### **565.22 Unacknowledged deed; effect of filing; continuation.**

Sec. 22.

If at the expiration of the time mentioned in the preceding section for that purpose, the proceedings for proving the execution of the deed shall be pending before the circuit court, the effect of filing such copy shall continue until the expiration of 7 days after the termination of the proceedings, if such deed shall within that time be duly proved and recorded.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2741 ;-- CL 1871, 4224 ;-- How. 5672 ;-- CL 1897, 8977 ;-- CL 1915, 11709 ;-- CL 1929, 13297 ;-- CL 1948, 565.22 ;-- Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991

#### **565.23 Certificate of acknowledgment or proof of execution; effect on right to have deed recorded.**

Sec. 23.

A certificate of the acknowledgment of any deed, or of the proof of the execution thereof before a court of record, signed by the clerk of such court before whom the same was taken, as provided in this chapter, and, in the cases where the same is necessary, the certificate required by section 11 of this chapter shall entitle the deed with the certificate or certificates to be recorded in the office of the register of deeds of the county where the lands lie.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2742 ;-- CL 1871, 4225 ;-- How. 5673 ;-- CL 1897, 8978 ;-- CL 1915, 11710 ;-- CL 1929, 13298 ;-- CL 1948, 565.23 ;-- Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991

**Former Law:** From 1805 to 1815, deeds might be recorded in the office of any clerk of a court. Woodward Code, p. 52, sec. 87; Act of Aug. 29, 1805, Terr. Laws, vol. 1, p. 38; Act of Jan. 19, 1811, Terr. Laws, vol. 1, p. 162. The act of Nov. 4, 1815 required them to be recorded in the office of the register of probate of the district in which the lands were situate. Cass Code, p. 80; Terr. Laws, vol. 1, p. 176. See also Act of July 27, 1818, Terr. Laws, vol. 2, p. 140. By the act of Mar. 27, 1820 deeds were to be recorded in the office of the register of probate for the county, or register of the city, in which the lands were situate. Code of 1820, p. 157; Terr. Laws, vol. 1, p. 517. And see the Act of 1827, Rev. Laws of 1827, p. 258; Rev. Laws of 1833, p. 279; Terr. Laws, vol. 2, p. 261. See *Starkweather v. Martin*, 28 Mich. 477. The office of register of probate was abolished by the act of Jan. 29, 1835, and deeds, except of lands in Detroit, were required to be recorded in the office of the register of deeds elected for each county. Laws of 1835, p. 79; Terr. Laws, vol. 3, p. 1360. See also R.S. 1838, p. 260, Sec. 20; Amendatory Act 115 of 1839, Sec. 19, p. 219, to R.S. 1838; Act 108 of 1840, p. 167. As to recording in Detroit, see Act of July 28, 1818, Terr. Laws, vol. 2, p. 141; Act of Mar. 27, 1820; Terr. Laws, vol. 1, p. 518; Act of Apr. 12, 1827; Terr. Laws, vol. 2, p. 362; Rev. Laws of 1827, p. 259, of 1833, p. 280; Act of July 14, 1830, Rev. Laws of 1833, p. 282. See Laws of 1834, p. 38. The office of city register of Detroit was abolished by Act 115 of 1837, p. 268 and his duties conferred upon the register of deeds for the county of Wayne. Act 116 of 1837, p. 268. See Act 47 of 1844, p. 60, as amended by Act 108 of 1846, p. 156; Act 228 of 1850, p. 232.

#### **565.24 Delivery of instrument to register of deeds; affixing date, hour, and minute; accessibility; destruction of information created or maintained under subsection (2); fee; indexing of instrument; applicability of subsections (2) to (4); "general index date" defined; civil immunity.**

Sec. 24.

(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, acting within the scope of his or her authority and in the course of his or her employment when authorizing, conducting, or deciding when or whether to conduct a search under subsection (2), that action is within the exercise or discharge of his or her governmental function, and the register of deeds or the officer, employee, or agent is immune from any claim for liability, including tort liability, that might otherwise entitle any person or other entity or corporation to monetary damages. The civil immunity provided under this section is in addition to any civil immunity provided under law, including, but not limited to, the application of section 7 of 1964 PA 170, MCL 691.1407.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2743 ;-- CL 1871, 4226 ;-- Am. 1879, Act 262, Eff. Aug. 30, 1879 ;-- How. 5674 ;-- CL 1897, 8979 ;-- CL 1915, 11711 ;-- CL 1929, 13299 ;-- Am. 1941, Act 263, Eff. Jan. 10, 1942 ;-- CL 1948, 565.24 ;-- Am. 2008, Act 357, Imd. Eff. Dec. 23, 2008

#### **565.24a Assignment of liber and page or unique identifying number; satisfaction of recording requirements; delivery of instrument rejected on prior occasion.**

Sec. 24a.

(1) The register's assignment of a liber and page or other unique identifying number is prima facie evidence that the instrument has satisfied all recording requirements, including the payment of fees, and has been accepted for recording.

(2) An instrument is deemed to be recorded at the date and time of delivery to the register if the instrument is later determined to have satisfied all recording requirements, including the payment of fees.

(3) When an instrument that was rejected on a prior occasion is delivered, a new delivery date and time shall be noted on the face of the instrument as required by section 24 of this chapter, and the later date and time shall be rebuttably presumed to be the date and time of delivery.

**History:** Add. 2008, Act 357, Imd. Eff. Dec. 23, 2008

**565.25 Perfecting recording; conditions; exemptions; liability for certain conduct; penalties.**

Sec. 25.

(1) Except as otherwise provided in subsection (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 delivered to the register 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) Subsection (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, 1893 PA 206, MCL 211.1 to 211.155.
  - (b) The filing of an instrument of encumbrance authorized by state statute or federal statute.
  - (c) The filing of a consensual agreement to encumber real property entered into between the owner of real property and the person who seeks to record an encumbrance. A consensual agreement includes but is not limited to a mortgage, loan agreement, land contract, or other consensual or contractual agreement of whatever description entered into between the owner of real property and the person who seeks to record an encumbrance.
  - (d) The filing of an encumbrance authorized in a final order by a court of competent jurisdiction.
  - (e) A filing of a levy, attachment, lien, lis pendens, sheriff's certificate, marshal's certificate, or other instrument of encumbrance by a commercial lending institution. As used in this section, "commercial lending institution" means any of the following:
    - (i) A state or nationally chartered bank.
    - (ii) A state or federally chartered savings and loan association or savings bank.
    - (iii) A state or federally chartered credit union.
    - (iv) Any other state or federally chartered lending institution or regulated affiliate or regulated subsidiary of any 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, 1956 PA 218, MCL 500.100 to 500.8302.
    - (vi) A motor vehicle finance company subject to the motor vehicle sales finance act, 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, 1987 PA 173, MCL 445.1651 to 445.1684.
  - (xiii) A holder under the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.
  - (xiv) A retail seller under the retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.
  - (xv) A licensee under 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, 1988 PA 161, MCL 487.2051 to 487.2072.
  - (xvii) A licensee under the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.
  - (xviii) A regulated lender under the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.
- (3) A person who is not exempt under subsection (2) who encumbers property through the recording of an instrument listed under subsection (1) without lawful cause with the intent to harass or intimidate any person is liable for the penalties set forth in section 2907a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2907a.

**History:** R.S. 1846, Ch. 65 :- CL 1857, 2744 :- CL 1871, 4227 :- Am. 1879, Act 262, Eff. Aug. 30, 1879 :- How. 5675 :- CL 1897, 8980 :- CL 1915, 11712 :- CL 1929, 13300 :- CL 1948, 565.25 :- Am. 1958, Act 74, Eff. Sept. 13, 1958 :- Am. 1996, Act 526, Eff. Mar. 31, 1997 :- Am. 2008, Act 357, Imd. Eff. Dec. 23, 2008

**565.26 Repealed. 2008, Act 358, Imd. Eff. Dec. 23, 2008.**

**Compiler's Notes:** The repealed section pertained to the use of a different set of books for recording of deeds and mortgages.

**565.27 Recorded instruments; contents.**

Sec. 27.

The register may note upon every instrument he or she records the date and time when it was accepted, after the instrument met all recording requirements including the payment of fees. The register also shall note a reference to the liber and page, or other unique identifying number, where it is recorded.

**History:** R.S. 1846, Ch. 65 :- CL 1857, 2746 :- CL 1871, 4229 :- How. 5681 :- CL 1897, 8986 :- CL 1915, 11719 :- CL 1929, 13302 :- CL 1948, 565.27 :- Am. 2008, Act 358, Imd. Eff. Dec. 23, 2008

**565.28 Register of deeds; general index; contents; computerized index; securing computerized and primary indexes.**

Sec. 28.

(1) Each register of deeds shall keep a general index of instruments accepted for recording, after the instruments have met all recording requirements, including the payment of fees, by means of books or computerization or a combination of both. The index shall include the following information:

- (a) Liber and page, or other unique identifying number, which shall be sequentially, not randomly, assigned.
  - (b) Instrument type.
  - (c) The name of each party to each instrument.
  - (d) Date processed, after 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 shall be maintained to allow for an alphabetical search of the names of each party to each instrument, except as provided in section 1a(g) of 1915 PA 123, MCL 565.451a, 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.

**History:** R.S. 1846, Ch. 65 :- CL 1857, 2747 :- CL 1871, 4230 :- How. 5682 :- Am. 1893, Act 80, Eff. Aug. 28, 1893 :- CL 1897, 8987 :- CL 1915, 11720 :- CL 1929, 13303 :- Am. 1941, Act 263, Eff. Jan. 10, 1942 :- CL 1948, 565.28 :- Am. 1980, Act 95, Imd. Eff. Apr. 16, 1980 :- Am. 1992, Act 212, Imd. Eff. Oct. 5, 1992 :- Am. 2008, Act 358, Imd. Eff. Dec. 23, 2008 :- Am. 2014, Act 349, Imd. Eff. Oct. 17, 2014

**565.29 Unrecorded conveyance; validity against subsequent purchaser; relation of quit claim deed to good faith.**

Sec. 29.

Every conveyance of real estate within the state hereafter made, which shall not be recorded as provided in this chapter, shall be void as against any subsequent purchaser in good faith and for a valuable consideration, of the same real estate or any portion thereof, whose conveyance shall be first duly recorded. The fact that such first recorded conveyance is in the form or contains the terms of a deed of quit-claim and release shall not affect the question of good faith of such subsequent purchaser, or be of itself notice to him of any unrecorded

conveyance of the same real estate or any part thereof.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2748 ;-- CL 1871, 4231 ;-- How. 5683 ;-- CL 1897, 8988 ;-- Am. 1915, Act 199, Eff. Aug. 24, 1915 ;-- CL 1915, 11721 ;-- CL 1929, 13304 ;-- CL 1948, 565.29

#### **565.30 Deeds of church pews and slips; recording.**

Sec. 30.

Deeds of pews or slips in any church, may be recorded by the clerk of the township in which such a church is situated, or by the clerk of the society or proprietors, if incorporated or legally organized; and such clerks shall receive the same fees as the register of deeds is entitled to for similar services.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2749 ;-- CL 1871, 4232 ;-- How. 5684 ;-- CL 1897, 8989 ;-- CL 1915, 11722 ;-- CL 1929, 13305 ;-- CL 1948, 565.30

#### **565.32 Unrecorded deed of defeasance; validity against person without notice.**

Sec. 32.

When a deed purports to be an absolute conveyance in terms, but is made or intended to be made defeasible by force of a deed of defeasance or other instrument for that purpose, the original conveyance shall not be thereby defeated or affected, as against any person other than the maker of the defeasance, or his heirs or devisees, or persons having actual notice thereof, unless the instrument of defeasance shall have been recorded in the registry of deeds of the county where the lands lie.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2751 ;-- CL 1871, 4234 ;-- How. 5686 ;-- CL 1897, 8991 ;-- CL 1915, 11723 ;-- CL 1929, 13306 ;-- CL 1948, 565.32

#### **565.33 Assignment of mortgage; effect of recording.**

Sec. 33.

The recording of an assignment of a mortgage shall not, in itself, be deemed notice of such assignment to the mortgagor, his heirs or personal representatives, so as to invalidate any payment made by them, or either of them to the mortgagee.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2752 ;-- CL 1871, 4235 ;-- How. 5687 ;-- CL 1897, 8992 ;-- CL 1915, 11724 ;-- CL 1929, 13307 ;-- CL 1948, 565.33

#### **565.34 Purchaser; definition.**

Sec. 34.

The term "purchaser," as used in this chapter, shall be construed to embrace every person to whom any estate or interest in real estate, shall be conveyed for a valuable consideration, and also every assignee of a mortgage, or lease or other conditional estate.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2753 ;-- CL 1871, 4236 ;-- How. 5688 ;-- CL 1897, 8993 ;-- CL 1915, 11725 ;-- CL 1929, 13308 ;-- CL 1948, 565.34

#### **565.35 Conveyance; definition.**

Sec. 35.

The term "conveyance," as used in this chapter, shall be construed to embrace every instrument in writing, by which any estate or interest in real estate is created, aliened, mortgaged or assigned; or by which the title to any real estate may be affected in law or equity, except wills, leases for a term not exceeding 3 years, and executory contracts for the sale or purchase of lands.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2754 ;-- CL 1871, 4237 ;-- How. 5689 ;-- CL 1897, 8994 ;-- CL 1915, 11726 ;-- CL 1929, 13309 ;-- CL 1948, 565.35

#### **565.36 Power of attorney to convey lands; inapplicability of preceding section; executory land contract; recording; recording as evidence.**

Sec. 36.

The preceding section shall not be construed to extend to a letter of attorney, or other instrument containing a power to convey lands as agent or attorney for the owner of such lands; but every such letter or instrument, and every executory contract for the sale or purchase of lands, when acknowledged or proved in the manner prescribed in this chapter, may be recorded in the registry of deeds of any county in which the lands to which such power or contract relates, may be situated; and when so acknowledged or proved, and the record thereof when recorded, or a transcript of such record duly certified, may be read in evidence in the same manner, and with the like effect, as a conveyance recorded in such county.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2755 ;-- CL 1871, 4238 ;-- How. 5690 ;-- CL 1897, 8995 ;-- CL 1915, 11727 ;-- CL 1929, 13310 ;-- CL 1948, 565.36

#### **565.37 Power of attorney to convey lands; recording of revocation.**

Sec. 37.

No letter of attorney or other instrument so recorded, shall be deemed to be revoked by any act of the party by whom it was executed, unless the instrument containing such revocation be also recorded in the same office in which the instrument containing the power was recorded.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2756 ;-- CL 1871, 4239 ;-- How. 5692 ;-- CL 1897, 8998 ;-- CL 1915, 11730 ;-- CL 1929, 13311 ;-- CL 1948, 565.37

**565.38 New county; transcription of instruments; effect, compensation of register.**

Sec. 38.

When a new county shall be organized, in whole or in part from an organized county, or from territory attached to such organized county for judicial purposes, all the records of deeds and other instruments relating to real estate in such new county, may be transcribed into the proper books by the register of deeds of such new county; which records so transcribed, shall have the same effect in all respects as original records, and the register shall be paid for transcribing the same, such sum as the board of supervisors of his county may deem just and reasonable.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2757 ;-- CL 1871, 4240 ;-- How. 5693 ;-- CL 1897, 8999 ;-- CL 1915, 11731 ;-- CL 1929, 13312 ;-- CL 1948, 565.38

**565.39 Device used as seal; effect; application to official seals.**

Sec. 39.

A scroll or device used as a seal upon any deed of conveyance or other instrument whatever, whether intended to be recorded or not, shall have the same force and effect as a seal attached thereto, or impressed thereon, but this section shall not be construed to apply to such official seals as are or may be provided for by law.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2758 ;-- CL 1871, 4241 ;-- How. 5699 ;-- CL 1897, 9005 ;-- CL 1915, 11740 ;-- CL 1929, 13313 ;-- CL 1948, 565.39

**Former Law:** Act of Oct. 23, 1822, Terr. Laws, vol. 1, p. 272, contains similar provisions. The act of June 10, 1828, provided that "any instrument to which the person making the same shall affix any device by way of seal, shall be adjudged and held to be of the same force and obligations as if it were actually sealed." And that "all instruments executed since the thirty-first day of December, 1827, to which the person or persons executing the same may have affixed any device by way of seal, shall be adjudged and held of the same force and obligation as if the same were actually sealed." Laws of 1828, p. 29; Revision of 1833, p. 516; Terr. Laws, vol. 2, p. 667; *Starkweather v. Martin*, 28 Mich. 479. A similar provision has been in force ever since. R.S. 1838, p. 438, 439; Sec. 8, Act 108 of 1840. Until the R.S. of 1846 (p. 487, Sec. 49), there was no statutory provision dispensing with the necessity of a seal, or a substitute therefor, to a conveyance of lands.

**565.40 Prior legal conveyances; effect as evidence, recording; conveyance under unacknowledged contract, record as evidence.**

Sec. 40.

All conveyances of real estate heretofore made and acknowledged or proved, in accordance with the laws of this state, in force at the time of such making and acknowledgment or proof, shall have the same force as evidence, and be recorded in the same manner, and with the like effect, as conveyances executed and acknowledged in pursuance of the provisions of this chapter. And where any conveyance, with an unacknowledged contract in writing attached, annexed or appended thereto, and referred to in the body of such conveyance as being thereto attached, appended or annexed, has been heretofore recorded, or that may be hereafter recorded; the record, or a transcript of the record of such conveyance and contract, certified by the register in whose office the same may have been recorded, may be read in evidence in any court within this state without further proof thereof; but the effect of such evidence may be rebutted by other competent testimony.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2759 ;-- CL 1871, 4242 ;-- How. 5700 ;-- Am. 1889, Act 101, Eff. Oct. 2, 1889 ;-- CL 1897, 9006 ;-- CL 1915, 11741 ;-- CL 1929, 13314 ;-- CL 1948, 565.40

**565.41 Discharge of mortgage; payment of filing fee by mortgagee; date of discharge.**

Sec. 41.

(1) Within the applicable time period in section 44(2) after a mortgage has been paid or otherwise satisfied, the mortgagee or the personal representative, successor, or assign of the mortgagee shall prepare a discharge of the mortgage, file the discharge with the register of deeds for the county where the mortgaged property is located, and pay the fee for recording the discharge.

(2) If a discharge of mortgage received by a register of deeds under subsection (1) is not recorded on the day it is received, the register of deeds shall place on or attach to the discharge, by means of a stamp, electronically, or otherwise, the date the discharge is received. The date placed on or attached to the discharge under this subsection is prima facie evidence of the date the discharge was filed with the register of deeds.

**History:** Add. 1964, Act 110, Eff. Aug. 28, 1964 ;-- Am. 2004, Act 447, Imd. Eff. Dec. 27, 2004

**565.42 Discharge of mortgage; certificate of mortgagee; circuit court, or register in chancery.**

Sec. 42.

Any mortgage shall also be discharged upon the record thereof by the register of deeds, in whose custody it shall be, whenever there shall be presented to him a certificate executed by the mortgagee, his personal representative or assigns, acknowledged, approved and certified as in this chapter provided, to entitle conveyances or instruments in writing in any wise affecting the title to lands to be recorded, specifying that such mortgage has been paid, or otherwise satisfied or discharged; or upon the presentation to such register of deeds of the certificate of the circuit court, signed by the judge of said court, and under the seal thereof, certifying that it has been made to appear to said court that said mortgage has been duly paid, or upon the presentation to such register of deeds of a certificate of the register in chancery of the county and under the seal thereof certifying that a decree of foreclosure of any such mortgage has been duly entered in his office, and that the records in his office shows that such decree has been fully paid and satisfied.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2761 ;-- Am. 1867, Act 102, Imd. Eff. Mar. 26, 1867 ;-- CL 1871, 4244 ;-- Am. 1875, Act 47, Eff. Aug. 3, 1875 ;-- How. 5702 ;-- CL 1897, 9008 ;-- CL 1915, 11743 ;-- CL 1929, 13316 ;-- CL 1948, 565.42

**Compiler's Notes:** The register of chancery, referred to in this section, is now clerk of the circuit court. See MCL 600.571.

**565.43 Discharge of mortgage; recording of certificate; reproduced documents; reference to liber and page containing certificate.**

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 liber and page, or other unique identifying number, containing the certificate, in the 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 1964 PA 105, MCL 691.1102, and the mortgage does not exist in a hard copy medium, it is not necessary for him or her to make reference to the liber and page containing the certificate on the liber and page containing the mortgage. Instead, reference to the liber and page containing the certificate shall be made in the index to the permanent index of mortgages.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2762 ;-- CL 1871, 4245 ;-- How. 5703 ;-- CL 1897, 9009 ;-- CL 1915, 11744 ;-- CL 1929, 13317 ;-- CL 1948, 565.43 ;-- Am. 1959, Act 22, Imd. Eff. Apr. 30, 1959 ;-- Am. 1992, Act

**565.44 Discharge of mortgage; refusal; civil liability; penalty; time periods.**

Sec. 44.

(1) If a mortgagee or the personal representative or assignee of the mortgagee, after full performance of the condition of the mortgage, whether before or after a breach of the mortgage, or, if the mortgage is entirely due, after a tender of the whole amount due, within the applicable time period in subsection (2) after being requested and after tender of the mortgagee's reasonable charges, refuses or neglects to discharge the mortgage as provided in this chapter or to execute and acknowledge a certificate of discharge or release of the mortgage, the mortgagee is liable to the mortgagor or the mortgagor's heirs or assigns for \$1,000.00 damages. The mortgagee is also liable for all actual damages caused by the neglect or refusal to the person who performs the condition of the mortgage or makes the tender to the mortgagee or the mortgagee's heirs or assigns, or to anyone who has an interest in the mortgaged premises. Damages under this section may be recovered in an action for money damages or to procure a discharge or release of the mortgage. The court may, in its discretion, award double costs in an action under this section.

(2) The discharge of mortgage, execution and acknowledgment of a certificate, or filing of a discharge of mortgage required by this section or section 41 shall be performed within whichever of the following time periods is applicable:

- (a) For the first 2 years after the effective date of the amendatory act that added this subsection, 75 days.
- (b) Beginning 2 years after the effective date of the amendatory act that added this subsection, 60 days.

**History:** R.S. 1846, Ch. 65 ;-- CL 1857, 2763 ;-- Am. 1861, Act 13, Eff. June 15, 1861 ;-- CL 1871, 4246 ;-- How. 5704 ;-- CL 1897, 9010 ;-- CL 1915, 11745 ;-- CL 1929, 13318 ;-- CL 1948, 565.44 ;-- Am. 2004, Act 447, Imd. Eff. Dec. 27, 2004

**565.46 Proof and acknowledgment of deeds; application of law to instruments affecting lands.**

Sec. 46.

The preceding sections of this chapter to procure, enforce and obtain the proof and acknowledgment of deeds, shall be, and the same are hereby made applicable to all instruments in writing in any wise affecting the title to lands which are required or authorized to be acknowledged, or acknowledged and recorded.

**History:** Add. 1867, Act 102, Imd. Eff. Mar. 26, 1867 ;-- CL 1871, 4248 ;-- How. 5706 ;-- CL 1897, 9012 ;-- CL 1915, 11747 ;-- CL 1929, 13319 ;-- CL 1948, 565.46

**565.47 Recording by register of deeds; acknowledgment required.**

Sec. 47.

A deed, mortgage, or other instrument in writing that by law is required to be acknowledged affecting the title to lands, or any interest therein, shall not be recorded by the register of deeds of any county unless the deed, mortgage, or other instrument is acknowledged or proved as provided by this chapter.

**History:** Add. 1867, Act 102, Imd. Eff. Mar. 26, 1867 ;-- CL 1871, 4249 ;-- How. 5707 ;-- CL 1897, 9013 ;-- CL 1915, 11748 ;-- CL 1929, 13320 ;-- CL 1948, 565.47 ;-- Am. 2002, Act 23, Imd. Eff. Mar. 4, 2002

**565.48 Deed by surviving joint tenant of lands; recording; certified copy of death.**

Sec. 48.

A register of deeds shall not record a deed or other instrument in writing that purports to convey an interest in land by the survivor or survivors under a deed to joint tenants or tenants by the entirety, unless, for each joint tenant or tenant by the entirety who is indicated in the deed or instrument to be deceased, a certified copy of the death certificate or other proof of death that is permitted by the laws of this state to be received for record by the register, is shown to have been recorded in the register's office by liber and page reference or is filed concurrently with the deed or other instrument and recorded as a separate document.

**History:** Add. 1947, Act 20, Eff. Oct. 11, 1947 ;-- CL 1948, 565.48 ;-- Am. 2018, Act 195, Eff. Sept. 18, 2018

**565.49 Conveyances; same person or persons among grantors and grantees; joint tenancy, tenancy by entireties.**

Sec. 49.

Conveyances in which the grantor or 1 or more of the grantors are named among the grantees therein shall have the same force and effect as they would have if the conveyance were made by a grantor or grantors who are not named among the grantees. Conveyances expressing an intent to create a joint tenancy or tenancy by the entireties in the grantor or grantors together with the grantee or grantees shall be effective to create the type of ownership indicated by the terms of the conveyance.

**History:** Add. 1955, Act 3, Eff. Oct. 14, 1955

**OIL AND GAS ASSIGNMENTS**

**Act 66 of 1956**

AN ACT to authorize the assignment of oil and gas, and the rents and profits from oil and gas properties, and the income from the sale of oil and gas produced or to be produced from oil and gas properties, as herein defined, whether presently owned or subsequently acquired, as security in, or in connection with, existing or future mortgages or deeds of trust of oil and gas properties.

**History:** 1956, Act 66, Eff. Aug. 11, 1956

*The People of the State of Michigan enact:*

**565.81 Oil and gas assignment; security for indebtedness.**

Rendered Sunday, August 24, 2025



Sec. 1.

Hereafter, in or in connection with any existing or future mortgage or deed of trust, it shall be lawful to assign in the mortgage or in a separate written instrument or instruments signed, sealed, acknowledged and proved in the same manner as deeds, all or any part of the oil and gas located in, on or under oil and gas properties, and all or any part of the rents and profits from oil and gas properties, and the income from the sale of oil and gas produced or to be produced from oil and gas properties, to the mortgagee or trustee named in the mortgage or deed of trust as security for the indebtedness secured by the mortgage or deed of trust.

**History:** 1956, Act 66, Eff. Aug. 11, 1956

#### **565.82 Oil and gas assignment; time of operation.**

Sec. 2.

The assignment may contain provisions making it immediately operative, or operative only upon the happening of an event of default as described in the assignment or in the mortgage or deed of trust, or operative at such time as the mortgagee or trustee named in the mortgage or deed of trust may elect, and the assignment may contain further provisions to the effect that when it becomes operative the mortgagee or the trustee named in the mortgage or deed of trust thereupon shall be entitled to the present and full possession, receipt, use and right to the oil and gas, the rents, profits and income, and the oil and gas properties, as security and for application upon the indebtedness secured by the mortgage or deed of trust.

**History:** 1956, Act 66, Eff. Aug. 11, 1956

#### **565.83 Oil and gas assignment; validity; certified copy; service on pipe line company.**

Sec. 3.

The assignment shall become and be and remain effective and a good and valid assignment as against all persons, including the mortgagor or those claiming under or through him, from and after the date of execution and delivery thereof, subject however, as in the case of conveyances of an interest in real estate, to the provisions of chapter 65 of the Revised Statutes of 1846, as amended, being sections 565.1 to 565.49, inclusive, of the Compiled Laws of 1948. The assignment shall not be effective as to pipe line companies or other purchasers taking delivery of oil and gas produced from the mortgaged oil and gas properties at the time of execution and delivery of the assignment, until an executed or certified copy thereof shall have been served personally or by registered mail on the pipe line company or other purchaser.

**History:** 1956, Act 66, Eff. Aug. 11, 1956

#### **565.84 Oil and gas assignment; duration of effectiveness.**

Sec. 4.

The assignment shall become and be and remain in full force and effect until all of the indebtedness secured by the mortgage or deed of trust is fully paid, satisfied and discharged and the effectiveness in nowise shall be limited, suspended, revoked, or terminated by the occurrence of one or more events of default as described in the assignment or in the mortgage or deed of trust, or by reason of any step taken to foreclose the mortgage or deed of trust, by advertisement or by judicial proceedings, or during the period of redemption following a sheriff's or a judicial sale of the oil and gas properties.

**History:** 1956, Act 66, Eff. Aug. 11, 1956

#### **565.85 Oil and gas assignment; definitions.**

Sec. 5.

The term "oil and gas" as used herein, shall include oil or gas, or both, and the term "oil and gas properties", as used herein, shall include all types of fee, royalty, leasehold and contract interests and rights, in whole or in part, in all or any part of one or more parcels of real property in this state from which oil and gas is being or may at any time be produced; and all types of royalty, leasehold and contract interests, in whole or in part, in all or any part of oil and gas in place, in production, in storage or in transit; and all types of contract rights to explore for, drill for, produce and transport oil and gas which involve for their creation or termination a conveyance or transfer of an interest in real estate in this state; and all combinations of one or more of the foregoing types of interests or rights.

**History:** 1956, Act 66, Eff. Aug. 11, 1956

### **MARKETABLE RECORD TITLE**

#### **Act 200 of 1945**

AN ACT to define a marketable record title to an interest in land; to require the filing of notices of claim of interest in such land in certain cases within a definite period of time and to require the recording thereof; to make invalid and of no force or effect all claims with respect to the land affected thereby where no such notices of claim of interest are filed within the required period; to provide for certain penalties for filing slanderous notices of claim of interest, and to provide certain exceptions to the applicability and operation thereof.

**History:** 1945, Act 200, Eff. Sept. 6, 1945

*The People of the State of Michigan enact:*

#### **565.101 Marketable record title.**

Sec. 1.

Any person, that has the legal capacity to own land in this state, that has an unbroken chain of title of record to any interest in land for 20 years for mineral interests and 40 years for other interests, is at the end of the applicable period considered to have a marketable record title to that interest, subject only to claims to that interest and defects of title that are not extinguished or barred by the application of this act and subject also to any interests and defects that are inherent in the provisions and limitations contained in the muniments of which the chain of record title is formed and that are recorded on or before September 29, 2025 or during the 20-year period for mineral interests and the 40-year period for other interests. However, a person is not considered to have a marketable record title under this act if the land in which the interest exists is in the hostile possession of another.

**History:** 1945, Act 200, Eff. Sept. 6, 1945 ;-- CL 1948, 565.101 ;-- Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997 ;-- Am. 2018, Act 572, Eff. Mar. 29, 2019 ;-- Am. 2024, Act 20, Imd. Eff. Mar. 28, 2024

#### **565.101a Mineral interest defined.**

Sec. 1a.

As used in this act, "mineral interest" means an interest in minerals in any land if the interest in minerals is owned by a person other than the owner of the surface of the land. Mineral interest does not include an interest in oil or gas or an interest in sand, gravel, limestone, clay, or marl.

**History:** Add. 1997, Act 154, Imd. Eff. Dec. 22, 1997

#### **565.102 Unbroken chain of title to interest in land; conditions.**

Sec. 2.

- (1) A person is considered to have an unbroken chain of title to an interest in land as provided in section 1 if the official public records disclose either of the following:
- (a) A conveyance or other title transaction not less than 20 years in the past for mineral interests and 40 years for other interests, which conveyance or other title transaction purports to create the interest in that person, with nothing appearing of record purporting to divest that person of the purported interest.
  - (b) A conveyance or other title transaction not less than 20 years in the past for mineral interests and 40 years for other interests, which conveyance or other title transaction purports to create the interest in some other person and other conveyances or title transactions of record by which the purported interest has become vested in the person first referred to in this section, with nothing appearing of record purporting to divest the person first referred to in this section of the purported interest.
- (2) For purposes of this section, except as to mineral interests, a conveyance or other title transaction in the chain of title purports to divest an interest in the property only if it creates the divestment or if it specifically refers by liber and page or other county-assigned unique identifying number to a previously recorded conveyance or other title transaction that created the divestment.

**History:** 1945, Act 200, Eff. Sept. 6, 1945 ;-- CL 1948, 565.102 ;-- Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997 ;-- Am. 2018, Act 572, Eff. Mar. 29, 2019

#### **565.103 Marketable record title; successors in interest; notice of claims; filing for record.**

Sec. 3.

- (1) Marketable title is held by a person and is taken by the person's successors in interest free and clear of any and all interests, claims, and charges the existence of which depends in whole or in part on any act, transaction, event, or omission that occurred before the 20-year period for mineral interests, and the 40-year period for other interests, and all such interests, claims, and charges are void and of no effect at law or in equity. However, an interest, claim, or charge may be preserved and kept effective by filing for record on or before September 29, 2025 or during the 20-year period for mineral interests and the 40-year period for other interests, a notice in writing, verified by oath, setting forth the nature of the claim in the manner required by section 5.
- (2) A disability or lack of knowledge of any kind on the part of anyone does not suspend the running of the 20-year period for mineral interests or the 40-year period for other interests.
- (3) For the purpose of recording notices of claim for homestead interests, the date from which the 20-year period for mineral interests and the 40-year period for other interests run is the date of recording of the instrument that contains the basis for the claim.
- (4) A notice under this section may be filed for record by the claimant or by any other person acting on behalf of any claimant if 1 or more of the following conditions exist:
- (a) The claimant is under a disability.
  - (b) The claimant is unable to assert a claim on the claimant's own behalf.
  - (c) The claimant is 1 of a class but whose identity cannot be established or is uncertain at the time of filing the notice of claim for record.

**History:** 1945, Act 200, Eff. Sept. 6, 1945 ;-- CL 1948, 565.103 ;-- Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997 ;-- Am. 2018, Act 572, Eff. Mar. 29, 2019 ;-- Am. 2020, Act 294, Imd. Eff. Dec. 29, 2020 ;-- Am. 2024, Act 20, Imd. Eff. Mar. 28, 2024

#### **565.104 Marketable record title; failure to file notice not to bar right to possession; applicability to government property or oil and gas interests.**

Sec. 4.

- (1) This act must not be applied to do any of the following:
- (a) Bar a lessor or a lessor's successor as reversioner of the lessor's right to possession on the expiration of a lease or a lessee or the lessee's successor of the lessee's rights in and to a lease.
  - (b) Bar any interest of a mortgagor or a mortgagee or interest in the nature of that of a mortgagor or mortgagee until after the instrument under which the interest is claimed has become due and payable, except if the instrument has no due date expressed, or if the instrument has been executed by a railroad, railroad bridge, tunnel, union depot company, or public utility or public service company.
  - (c) Bar or extinguish an easement or interest in the nature of an easement, the existence of which is clearly observable by physical evidences of its use.
  - (d) Bar or extinguish an easement or interest in the nature of an easement, or any rights appurtenant to the easement or interest granted, excepted, or reserved by a recorded instrument creating the easement or interest, including any rights for future use, due to a failure to file the notice required under this act, if the easement, observable or not, is for any of the following:
    - (i) The operation, construction, maintenance, improvement, removal, replacement, or protection of a pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole, tower, or other physical facility, whether or not the existence of the facility is observable.
    - (ii) Flowage rights for an impoundment that exists as part of a federally licensed hydroelectric facility.
    - (iii) The management of vegetation within the easement.
  - (e) Bar or extinguish any land or resource use restriction, including any of the following:
    - (i) An environmental restrictive covenant or other recorded instrument if the restrictive covenant or other recorded instrument specifically cites the state or federal environmental statute that is the basis for the restriction, including any of the following:
      - (A) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.
      - (B) The resource conservation and recovery act of 1976, Public Law 94-580.
      - (C) The comprehensive environmental response, compensation, and liability act of 1980, 42 USC Chapter 103.
    - (ii) A conservation easement as that term is defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.
    - (iii) Any environmental land or resource use restriction recorded by a public utility as that term is defined in section 1 of 1929 PA 69, MCL 460.501, or by an independent transmission company as that term is defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562, on real property in which the public utility or independent transmission company had an interest when recorded.
- (2) This act does not affect any right, title, or interest in land owned by the United States, this state, or any department, commission, or political subdivision of this state.
- (3) This act does not affect any oil and gas lease, or other interest in oil or gas, owned by a person other than the owner of the surface, or any storage agreement or other interest in subsurface storage formations owned by a person other than the owner of the surface.

**History:** 1945, Act 200, Eff. Sept. 6, 1945 ;-- Am. 1946, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 26, 1946 ;-- Am. 1947, Act 117, Imd. Eff. May 22, 1947 ;-- CL 1948, 565.104 ;-- Am. 1951, Act 235, Eff. Sept. 28, 1951 ;-- Am. 1965, Act 323, Eff. Mar. 31, 1966 ;-- Am. 2018, Act 572, Eff. Mar. 29, 2019 ;-- Am. 2022, Act 235, Eff. Mar. 29, 2023

#### **565.105 Notice of claim to contain land description; requirements; recording, fees, indexing.**

##### **Sec. 5.**

(1) To be effective and to be entitled to record, a notice of claim under section 3 must contain an accurate and full description of all the land affected by the notice, which description must be set forth in particular terms and not by general inclusions. However, except as to mineral interests, if the claim is founded on a recorded instrument, the notice must also state the liber and page or other county-assigned unique identifying number of the recorded instrument the claim is founded on. The failure to include the liber and page or other county-assigned unique identifying number renders the recording ineffective and the claim unpreserved. The notice must contain all of the following:

- (a) The claimant's name.
  - (b) The claimant's mailing address.
  - (c) The interest claimed to be preserved.
  - (d) Except as to mineral interests, the liber and page or other unique identification number of the instrument creating the interest to be preserved.
  - (e) The legal description of the real property affected by the claimed interest.
  - (f) The claimant's signature.
  - (g) An acknowledgment in the form required by the uniform recognition of acknowledgments act, 1969 PA 57, MCL 565.261 to 565.270, and section 27 of the Michigan notary public act, 2003 PA 238, MCL 55.287.
  - (h) The drafter's name and address.
  - (i) An address to which the document can be returned.
- (2) A notice of claim under section 3 must be filed for record in the register of deeds office of the county or counties where the land described in the notice is located. The register of deeds of each county shall accept all notices of claim under section 3 that are presented to the register of deeds that describe land located in the county in which the register of deeds serves and shall enter and record full copies of the notices in the same way that deeds and other instruments are recorded.
- (3) A register of deeds is entitled to charge the same fees for the recording of a notice under section 3 as are charged for recording deeds. In indexing notices under section 3, a register of deeds shall enter the notices under the grantee indexes of deeds under the names of the claimants appearing in the notices.

**History:** 1945, Act 200, Eff. Sept. 6, 1945 ;-- Am. 1947, Act 117, Imd. Eff. May 22, 1947 ;-- CL 1948, 565.105 ;-- Am. 2018, Act 572, Eff. Mar. 29, 2019

#### **565.106 Construction of act; purpose; extinguishment of claim.**

##### **Sec. 6.**

This act shall be construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons dealing with the record title owner, as defined in this act, to rely on the record title covering a period of not more than 20 years for mineral interests and 40 years for other interests prior to the date of such dealing and to that end to extinguish all claims that affect or may affect the interest dealt with, the existence of which claims arises out of or depends upon any act, transaction, event, or omission antedating the 20-year period for mineral interests and the 40-year period for other interests, unless within the 20-year period for mineral interests or the 40-year period for other interests a notice of claim as provided in section 3 has been filed for record. The claims extinguished by this act are any and all interests of any nature whatever, however denominated, and whether the claims are asserted by a person sui juris or under disability, whether the person is within or outside the state, and whether the person is natural or corporate, or private or governmental.

**History:** 1945, Act 200, Eff. Sept. 6, 1945 ;-- CL 1948, 565.106 ;-- Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997

#### **565.107 Limitations of actions.**

##### **Sec. 7.**

Nothing contained in this act shall be construed to extend the periods for the bringing of an action or for the doing of any other required act under any existing statutes of limitation nor to affect the operation of any existing acts governing the effect of the recording or of the failure to record any instruments affecting land nor to affect the operation of Act No. 216 of the Public Acts of 1929 nor of Act No. 58 of the Public Acts of 1917 as amended by Act No. 105 of the Public Acts of 1939.

**History:** 1945, Act 200, Eff. Sept. 6, 1945 ;-- CL 1948, 565.107

**Compiler's Notes:** For provisions of Act 216 of 1929, Act 58 of 1917, and Act 105 of 1939, referred to in this section, see MCL 565.381 et seq., MCL 558.81 et seq., and MCL 558.91 et seq., respectively.

#### **565.108 Filing slanderous notices of claims; costs awarded to plaintiff.**

##### **Sec. 8.**

No person shall use the privilege of filing notices hereunder for the purpose of slandering the title to land, and in any action brought for the purpose of quieting title to land, if the court shall find that any person has filed a claim for that reason only, he shall award the plaintiff all the costs of such action, including such attorney fees as the court may allow to the plaintiff, and in addition, shall decree that the defendant asserting such claim shall pay to plaintiff all damages that plaintiff may have sustained as the result of such notice of claim having been so filed for record.

**History:** 1945, Act 200, Eff. Sept. 6, 1945 ;-- CL 1948, 565.108

#### **565.109 Repealed. 2018, Act 572, Eff. Mar. 29, 2019.**

**Compiler's Notes:** The repealed section pertained to claims not barred.

### **DISCHARGE OF LIENS, MORTGAGES, AND OTHER CLAIMS IN LAND**

#### **Act 31 of 1947**

AN ACT to authorize the state administrative board to discharge certain liens, mortgages and other claims of interest in land in which it is determined by the state administrative board the state has no interest; and to validate discharges heretofore executed.

**History:** 1947, Act 31, Imd. Eff. Apr. 4, 1947

*The People of the State of Michigan enact:*

**565.131 Discharge of mortgages; liens, recorded claims in land by state administrative board.**

Sec. 1.

The state administrative board is hereby authorized to discharge liens, mortgages and other claims of interest in land on record in favor of the state of Michigan, or any of its departments, boards, commissions, institutions or agencies, in which the state has no interest, and which are not authorized by law to be discharged by any other agency of the state. The state administrative board shall determine the interest of the state.

**History:** 1947, Act 31, Imd. Eff. Apr. 4, 1947 ;-- CL 1948, 565.131

**565.132 Validation of executed discharges.**

Sec. 2.

Any such discharge heretofore executed by the state administrative board is hereby validated.

**History:** 1947, Act 31, Imd. Eff. Apr. 4, 1947 ;-- CL 1948, 565.132

**FORM OF DEEDS, MORTGAGES, AND ACKNOWLEDGMENTS**

**Act 187 of 1881**

AN ACT in relation to the form of deeds and mortgages of real estate and to the form of the acknowledgments of the same.

**History:** 1881, Act 187, Eff. Sept. 10, 1881

*The People of the State of Michigan enact:*

**565.151 Form; warranty deed.**

Sec. 1.

That any conveyance of lands worded in substance as follows: "A.B. conveys and warrants to C.D. (here describe the premises) for the sum of (here insert the consideration)," the said conveyance being dated and duly signed, sealed and acknowledged by the grantor, shall be deemed and held to be a conveyance in fee simple to the grantee, his heirs and assigns, with covenant from the grantor for himself and his heirs and personal representatives, that he is lawfully seized of the premises, has good right to convey the same, and guarantees the quiet possession thereof; that the same are free from all incumbrances, and that he will warrant and defend the title to the same against all lawful claims.

**History:** 1881, Act 187, Eff. Sept. 10, 1881 ;-- How. 5728 ;-- CL 1897, 9014 ;-- CL 1915, 11749 ;-- CL 1929, 13321 ;-- CL 1948, 565.151

**565.152 Form; quit claim deed.**

Sec. 2.

Any conveyance of lands worded in substance as follows: "A.B. quit claims to C.D. (here describe the premises) for the sum of (here insert the consideration)," the said conveyance, being duly signed, sealed, and acknowledged by the grantor, shall be deemed to be a good and sufficient conveyance in quit claim to the grantee, his heirs, and assigns.

**History:** 1881, Act 187, Eff. Sept. 10, 1881 ;-- How. 5729 ;-- CL 1897, 9015 ;-- CL 1915, 11750 ;-- CL 1929, 13322 ;-- CL 1948, 565.152

**565.153 Estates; word of creation.**

Sec. 3.

It shall not be necessary to use the words "heirs and assigns of the grantee" to create in the grantee an estate of inheritance; and if it be the intention of the grantor to convey any lesser estate, it shall be so expressed in the deed.

**History:** 1881, Act 187, Eff. Sept. 10, 1881 ;-- How. 5730 ;-- CL 1897, 9016 ;-- CL 1915, 11751 ;-- CL 1929, 13323 ;-- CL 1948, 565.153

**565.154 Mortgage; wording; validity and enforceability.**

Sec. 4.

A mortgage of lands that is worded in substance as follows: "A.B. mortgages and warrants to C.D., (here describe the premises) to secure the re-payment of" (here describe the indebtedness or obligations the mortgage secures) and is signed by the grantor, is a valid and enforceable mortgage to the grantee and the grantee's heirs, assigns, successors, and personal representatives with warranty from the grantor and the grantor's legal representatives, of marketable title in the grantor, free from prior incumbrances. If the indebtedness or obligations secured are described generally, such as "all indebtedness that A.B. now and in the future owes to C.D.", and if the words "and warrant" are omitted from the form, the mortgage is valid and enforceable, but without warranty.

**History:** 1881, Act 187, Eff. Sept. 10, 1881 ;-- How. 5731 ;-- CL 1897, 9017 ;-- CL 1915, 11752 ;-- CL 1929, 13324 ;-- CL 1948, 565.154 ;-- Am. 2004, Act 422, Imd. Eff. Dec. 15, 2004

## ANNUAL STATEMENTS TO MORTGAGORS

### Act 125 of 1966

An act to require mortgagees and their agents to furnish annual statements to mortgagors; to require mortgagees, vendors of land contracts, and their agents to make certain adjustments to escrow accounts; and to prescribe certain rights and duties.

**History:** 1966, Act 125, Eff. Mar. 10, 1967 ;-- Am. 1976, Act 112, Imd. Eff. May 14, 1976 ;-- Am. 1993, Act 285, Imd. Eff. Dec. 28, 1993

*The People of the State of Michigan enact:*

#### 565.161 Annual statements to mortgagor; when required, contents.

Sec. 1.

Where, by the terms of a mortgage on real property, the mortgagor is required to make periodic payments which include sums to be allocated to an escrow account for the purpose of paying taxes, insurance or improvements to the property, or any combination of such purposes, the mortgagee or agent receiving the periodic payments shall furnish the mortgagor with a statement within 60 days of the close of the calendar year, showing the beginning balance of the escrow fund, total receipts received by the fund during the calendar year, an itemized statement of all expenditures from the fund during the calendar year and the balance in the fund at the end of the calendar year.

**History:** 1966, Act 125, Eff. Mar. 10, 1967

#### 565.162 Annual statements to mortgagor; exceptions to furnishing.

Sec. 2.

The annual statement specified in section 1 is not required where the mortgagor is provided with a monthly billing form or mortgagor passbook either of which provides the escrow fund balance and record of expenditures for taxes.

**History:** 1966, Act 125, Eff. Mar. 10, 1967

#### 565.163 Failure of mortgagee or agent to pay property taxes; liability for penalties or fees.

Sec. 3.

If, pursuant to an agreement, a mortgagor has paid sufficient funds into an escrow account for the purpose of paying taxes on mortgaged real property, and if the mortgagee or his agent has not paid those property taxes, then the person to whom the mortgagor paid the funds shall be liable to the mortgagor for any penalties or fees incurred by the mortgagor as a result of that failure to pay taxes.

**History:** Add. 1976, Act 112, Imd. Eff. May 14, 1976

#### 565.164 Adjustment to escrow account.

Sec. 4.

(1) Not later than March 1, 1994, a mortgagee, a vendor of a land contract, or their agent shall adjust the escrow account maintained for the payment of real property taxes to be levied in the 1994 calendar year by an amount that the mortgagee, vendor, or agent reasonably anticipates to be paid during the 1994 calendar year.

(2) An adjustment to the escrow account pursuant to subsection (1) shall become effective for the periodic payment that is due not later than April 30, 1994.

(3) Any adjustments made to the escrow account shall be considered reasonable if the adjustment is a reduction of not less than 35% of the total property taxes levied for the 1993 calendar year.

(4) Upon the receipt of a written request by a mortgagor or a vendee of a land contract, the mortgagee, vendor, or their agent shall, within a reasonable time, adjust the escrow account maintained for the payment of the 1994 real property taxes by reducing the amount required to be escrowed based upon the actual amount of taxes levied on the property in 1993 for local school district and intermediate school district operating purposes. An adjustment under this subdivision is required only if the mortgagor or vendee includes with the written request either of the following:

(a) The 1993 tax statements that state the actual dollar amount of real property tax levied for local school district and intermediate school district operating purposes.

(b) A certificate by the local taxing authority that states the actual dollar amount of real property tax levied for local school district and intermediate school district operating purposes.

(5) This section shall not be construed to prohibit a mortgagee, a vendor of a land contract, or their agent from adjusting the escrow account if information is or becomes available regarding the actual amount of real property tax levied or to be levied on the property for local school district and intermediate school district operating purposes.

(6) This section shall not be construed to require a mortgagee, a vendor of a land contract, or their agent to adjust the escrow account for a periodic payment that is due before April 1, 1994.

**History:** Add. 1993, Act 285, Imd. Eff. Dec. 28, 1993

## RECORDING REQUIREMENTS

### Act 103 of 1937

AN ACT to prescribe certain conditions relative to the execution of instruments entitled to be recorded in the office of the register of deeds.

**History:** 1937, Act 103, Eff. Oct. 29, 1937

*The People of the State of Michigan enact:*

#### 565.201 Requirements for recording with register of deeds.

Sec. 1.

- (1) A register of deeds shall not receive for recording an instrument executed after October 29, 1937 unless the instrument complies with each of the following requirements:
- (a) The name of each person purporting to execute the instrument is legibly printed, typewritten, or stamped beneath the original signature or mark of the person, and the signature or mark is in black or dark blue ink.
  - (b) A discrepancy does not exist between the name of each person as printed, typewritten, or stamped beneath his or her signature and the name as recited in the acknowledgment or jurat on the instrument.
  - (c) The name of any notary public whose signature appears on the instrument is legibly printed, typewritten, or stamped on the instrument and appears on the same page near the signature of the notary public.
  - (d) The address of each of the grantees in each deed of conveyance or assignment of real estate, including the street number address if located within territory where street number addresses are in common use, or, if not, the post office address, is legibly printed, typewritten, or stamped on the instrument.
  - (e) If the instrument is executed before April 1, 1997, each sheet of the instrument is all of the following:
    - (i) Typewritten or printed in type not smaller than 8-point size.
    - (ii) Not more than 8-1/2 by 14 inches.
    - (iii) Legible.
    - (iv) On paper of not less than 13 (17x22½"500) pound weight.
  - (f) If the instrument is executed after April 1, 1997, each sheet of the instrument complies with all of the following requirements:
    - (i) Has a margin of unprinted space that is at least 2-1/2 inches at the top of the first page and at least 1/2 inch on all remaining sides of each page.
    - (ii) Subject to subsection (3), displays on the first line of print on the first page of the instrument a single statement identifying the recordable event that the instrument evidences.
    - (iii) Is electronically, mechanically, or hand printed in 10-point type or the equivalent of 10-point type.
    - (iv) Is legibly printed in black ink on white paper that is not less than 20-pound weight.
    - (v) Is not less than 8-1/2 inches wide and 11 inches long or more than 8-1/2 inches wide and 14 inches long.
    - (vi) Contains no attachment that is less than 8-1/2 inches wide and 11 inches long or more than 8-1/2 inches wide and 14 inches long.
  - (g) Unless state or federal law, rule, regulation, or court order or rule requires that all or more than 4 sequential digits of the social security number appear in the instrument, beginning on 1 of the following dates the first 5 digits of any social security number appearing in or on the instrument are obscured or removed:
    - (i) Except as provided in subparagraph (ii), September 12, 2007.
    - (ii) For an instrument presented to the register of deeds by the department of treasury, April 1, 2008.
  - (h) If the instrument or any part of it is in a language other than English, a written English translation is attached to the instrument.
  - (i) If the instrument is executed after January 1, 1964, the instrument contains the name and business address of the person who drafted the instrument.
- (2) Subsection (1)(e) and (f) does not apply to instruments executed outside this state or to the filing or recording of a plat or other instrument, the size of which is regulated by law.
- (3) A register of deeds shall not record an instrument executed after April 1, 1997, other than an instrument described in subsection (2), if the statement required under subsection (1)(f) purports to evidence more than 1 recordable event.
- (4) Any instrument received and recorded by a register of deeds, including any instrument considered duly recorded under subsection (6), is conclusively presumed to comply with this act. The requirements contained in this act are cumulative to the requirements imposed by any other act relating to the recording of instruments.
- (5) A register of deeds shall not reject an instrument for recording because of the content of the instrument if the instrument complies with the provisions of this act and any other act relating to the recording of instruments.
- (6) If a mortgage meets all requirements for recording under this act and a copy of the mortgage is affixed to an affidavit that is recordable under section 1a(g) of 1915 PA 123, MCL 565.451a, the register of deeds shall receive the affidavit with the accompanying copy of the mortgage for record, and the mortgage is duly recorded under this act and under section 29 of 1846 RS 65, MCL 565.29, as of the date of recording of the affidavit. To the extent that the mortgage validly creates a lien, the lien is perfected as of the date of recording of the affidavit. The amendments to this section enacted by 2014 PA 347 apply retroactively to all copies of mortgages verified by affidavit regardless of whether they are recorded on, before, or after October 17, 2014, the effective date of 2014 PA 347. However, a register of deeds shall not receive an affidavit and mortgage for record under this subsection after October 16, 2014 if more than 1 mortgage is attached to the affidavit.

**History:** 1937, Act 103, Eff. Oct. 29, 1937; -- Am. 1941, Act 179, Eff. Jan. 10, 1942; -- Am. 1945, Act 213, Eff. Sept. 6, 1945; -- CL 1948, 565.201; -- Am. 1963, Act 150, Eff. Sept. 6, 1963; -- Am. 1964, Act 196, Eff. Jan. 1, 1965; -- Am. 1996, Act 459, Eff. Apr. 1, 1997; -- Am. 2002, Act 19, Imd. Eff. Mar. 4, 2002; -- Am. 2007, Act 56, Imd. Eff. Sept. 12, 2007; -- Am. 2014, Act 347, Imd. Eff. Oct. 17, 2014; -- Am. 2018, Act 197, Eff. Sept. 18, 2018

**565.201a Repealed. 2018, Act 197, Eff. Sept. 18, 2018.**

**Compiler's Notes:** The repealed section pertained to name and address required on recorded instruments.

**565.202 Affidavit; contents.**

Sec. 2.

The register of deeds shall, however, receive any such instrument for record, although the same does not comply with the requirements of this act: Provided, There is recorded therewith an affidavit of some person having personal knowledge of the facts, which affidavit shall be either printed or typewritten, shall comply with the requirements of this act, and shall state therein:

- (a) The correct name of any person, the name of whom was not printed, typewritten or stamped upon such instrument as required by this act;
- (b) In case such instrument does not comply with the requirements of paragraph (b) of section 1, the correct name of such person and shall state that each of the names used in such instrument refer to such person.

**History:** 1937, Act 103, Eff. Oct. 29, 1937; -- CL 1948, 565.203

**565.203 Inapplicability of act to certain instruments.**

Sec. 3.

- (1) This act does not apply to any of the following instruments:
- (a) A decree, order, judgment or writ of a court.
  - (b) A death certificate or a certified copy of a death certificate described in section 2886 of the public health code, 1978 PA 368, MCL 333.2886.
- (2) Section 1(1)(a), (c), and (d) does not apply to an instrument on which the signature itself is printed, typewritten, stamped, or electronically affixed.

**History:** 1937, Act 103, Eff. Oct. 29, 1937; -- CL 1948, 565.203; -- Am. 2015, Act 131, Eff. Dec. 29, 2015; -- Am. 2018, Act 196, Eff. Sept. 18, 2018

**STATEMENT OF MARITAL STATUS IN INSTRUMENTS CONVEYING OR MORTGAGING REAL ESTATE**

**Act 79 of 1915**

AN ACT to provide certain requirements in written instruments conveying or mortgaging real estate or any interest therein in which there are male grantors, mortgagors or other parties executing the same to entitle the same to record.

**History:** 1915, Act 79, Eff. Aug. 24, 1915

*The People of the State of Michigan enact:*

**565.221 Written instruments conveying or mortgaging real estate or interest offered for record before April 6, 2017; statement of marital status; refusal to receive instrument for record; recording affidavit showing marital status; record of instrument and affidavit; effect; instrument recorded without marital status shown; elapse of 10 years; evidence.**

Sec. 1.

(1) All written instruments conveying or mortgaging real estate or any interest in real estate executed and offered for record before April 6, 2017 must state whether any male grantors, mortgagors, or other parties executing the instrument are married or single, and the register of deeds of the county in which the instrument is offered for record shall refuse to receive the instrument for record unless it conforms to this act.

(2) If an instrument has been recorded in the office of a register of deeds without the instrument showing the marital status as required by this section, an affidavit stating the facts, executed in conformity with 1915 PA 123, MCL 565.451a to 565.453, may be recorded in the register's office. Upon the recording of the affidavit showing the marital status of the male grantor, mortgagor, or party executing, on the date of the instrument, the record of the affidavit and the record of the instrument are effectual for all purposes as a legal record, and the record of the instrument and affidavit or a transcript of them may be given in evidence in all cases, and the instrument must be construed to be as valid and effectual as if it had contained a statement showing the marital status of the male individual or individuals executing it.

(3) If an instrument offered for record before April 6, 2017 has been recorded in the office of a register of deeds without the instrument showing the marital status as required under this section, and 10 years has elapsed since the recording, the record of the instrument or a transcript of it may be given in evidence in all cases and is effectual for all purposes as a legal record and the instrument must be construed to be as valid and effectual as if it had contained a statement showing the marital status of the male individual or individuals executing it.

**History:** 1915, Act 79, Eff. Aug. 24, 1915 ;-- CL 1915, 11716 ;-- CL 1929, 13327 ;-- Am. 1937, Act 163, Imd. Eff. July 9, 1937 ;-- CL 1948, 565.221 ;-- Am. 1980, Act 489, Imd. Eff. Jan. 21, 1981 ;-- Am. 2017, Act 54, Imd. Eff. June 15, 2017

## **SEALING OF DEEDS AND OTHER INSTRUMENTS**

### **Act 198 of 1895**

AN ACT to establish a law uniform with the laws of other states relating to the sealing of deeds and other written instruments.

**History:** 1895, Act 198, Eff. Aug. 30, 1895

*The People of the State of Michigan enact:*

**565.231 Instruments deemed sealed.**

Sec. 1.

That in addition to the mode in which such instruments may now be executed in this state, hereafter all deeds and other instruments in writing executed by any person or by any private corporation, not having a corporate seal, and now required to be under seal, shall be deemed in all respects to be sealed instruments, and shall be received in evidence as such, provided the word "seal" or the letters "L.S." are added in the place where the seal should be affixed.

**History:** 1895, Act 198, Eff. Aug. 30, 1895 ;-- CL 1897, 9018 ;-- CL 1915, 11753 ;-- CL 1929, 13328 ;-- CL 1948, 565.231

**565.232 Seal of court, public officer, or corporation; methods of affixing; execution.**

Sec. 2.

(1) A seal of a court, public officer, or corporation may be affixed in any of the following ways:

(a) Impressed directly upon the instrument or writing to be sealed.

(b) Impressed upon wafer, wax, or other adhesive substance affixed to the instrument or writing or upon paper or other similar substance affixed to the instrument or writing by an adhesive substance.

(c) Affixed electronically upon the instrument or writing to be sealed, or affixed electronically upon an electronic document.

(2) An instrument or writing duly executed in the corporate name of a corporation that has not adopted a corporate seal, if executed by the proper officers of the corporation under any seal, shall be considered to have been executed under the corporate seal.

**History:** 1895, Act 198, Eff. Aug. 30, 1895 ;-- CL 1897, 9019 ;-- CL 1915, 11754 ;-- CL 1929, 13329 ;-- CL 1948, 565.232 ;-- Am. 2010, Act 56, Imd. Eff. Apr. 29, 2010

## **SEALS ON INSTRUMENTS AFFECTING REAL ESTATE**

### **Act 63 of 1937**

AN ACT relative to the use of seals on instruments affecting real estate.

**History:** 1937, Act 63, Imd. Eff. June 8, 1937

*The People of the State of Michigan enact:*

**565.241 Seals on instruments affecting real estate.**

Sec. 1.

Hereafter the affixing of an actual seal, a scroll or device used as a seal, the word "seal" or letters "L.S." after the signature of any individual, partnership or corporation executing any deed, mortgage, or other instrument affecting the title to real estate, or any interest therein, shall be unnecessary, and such instruments hereafter executed without affixing an actual seal, a scroll or device used as a seal, the word "seal" or letters "L.S." after such signatures, shall be construed to be sealed instruments and valid and effectual to convey the legal estate of the premises therein described, and the record of such instrument, if otherwise eligible to record, or a transcript thereof, may be given in evidence as in other cases.

**History:** 1937, Act 63, Imd. Eff. June 8, 1937 ;-- CL 1948, 565.241 ;-- Am. 1949, Act 4, Eff. Sept. 23, 1949

**565.242 Seals on instruments affecting real estate; instruments previously recorded; construction.**

Sec. 2.

The record of any instrument affecting the title to real estate or any interest therein heretofore recorded which does not show that an actual seal, a scroll or device used as a seal, the word "seal" or the letters "L.S." was affixed to the original instrument, or a transcript thereof, may be given in evidence as in other cases and shall be effectual for all purposes of a legal record and such instrument shall be construed to be as valid and effectual as if such instrument had been in such respect duly executed.

**History:** 1937, Act 63, Imd. Eff. June 8, 1937 ;-- CL 1948, 565.242

**ACKNOWLEDGMENT OF WRITTEN INSTRUMENTS**

**Act 185 of 1895**

565.251-565.256 Repealed. 1969, Act 57, Eff. Mar. 20, 1970.

**UNIFORM RECOGNITION OF ACKNOWLEDGMENTS ACT**

**Act 57 of 1969**

565.261-565.270 Repealed. 2018, Act 363, Eff. Mar. 12, 2019.

**ACKNOWLEDGMENT OF DEEDS OR OTHER INSTRUMENTS BY MARRIED WOMEN**

**Act 62 of 1877**

AN ACT relative to the acknowledgment of deeds and other instruments affecting real property by married women.

**History:** 1877, Act 62, Imd. Eff. Apr. 20, 1877

*The People of the State of Michigan enact:*

**565.281 Acknowledgment by married woman.**

Sec. 1.

That hereafter the acknowledgment of any married woman to a deed of conveyance or other instrument affecting real property, may be taken in the same manner as if she were sole.

**History:** 1877, Act 62, Imd. Eff. Apr. 20, 1877 ;-- How. 5662 ;-- CL 1897, 8966 ;-- CL 1915, 11698 ;-- CL 1929, 13337 ;-- CL 1948, 565.281

**Former Law:** See section 2 of Act 104 of 1875. The act of Aug. 29, 1805, provided that when husband and wife have sealed and delivered a writing, if the wife appear before such court (which it would seem must be a court of record), a judge, justice, or notary public, and being examined privily and apart from her husband, shall declare that she did freely and willingly seal and deliver the said writing, to be then shown and explained to her, and wishes not to retract it, and consenteth that it may be recorded, a certificate of such privy examination being returned and recorded with the writing; and the writing being acknowledged also by the husband, or proved by witnesses to be his act, in such case the said writing shall not only be sufficient to convey or release any right of dower thereby intended to be released or conveyed, but be as effectual for every other purpose as if she were an unmarried woman. See Woodward Code, p. 53; Cass Code, page 45; Terr. Laws, vol. 1, p. 39. If the grantor did not reside in Michigan, no different acknowledgment seemed to be required of the married woman than of any other person; but the deed, executed as before stated in the case of non-residents, together with any relinquishment of dower, was to be effectual. The act of May 27, 1820, provided that no estate of a feme covert residing in this territory should pass by her deed without a previous acknowledgment made on a private examination apart from her husband, that she executed such deed freely, without any fear or compulsion of her husband; but where any feme covert not residing in the territory should join with her husband in any deed or conveyance of, or relating to any lands or real estate within the territory, it might be executed and acknowledged in all respects as if she were sole, and she should thereby be barred of all claim of dower, and all other right and title therein as if she were sole. Code of 1820, p. 159; Terr. Laws, vol. 1, p. 518. This provision was re-enacted in 1827, and continued in force until and including August 31, 1838, when it was repealed by the Revised Statutes of that year. See revision of 1827, p. 259; and 1833, p. 280; Terr. Laws, vol. 2, p. 362. The Revised Statutes of 1838 required the acknowledgment of the wife to be taken separately and apart from her husband, and that she should acknowledge that she executed the deed without any fear or compulsion of her husband, p. 258, Sec. 11. And to bar her dower she must in the deed release her claim thereto, p. 263, Sec. 7. Sec. 4 of Act 108, 1840, p. 167, provided that the right of dower which a married woman might have in the state should not be passed or conveyed except by deed executed by her, to be acknowledged by her on a private examination, separate and apart from her husband, that she had executed the deed without fear or compulsion from any one. This provision, it will be seen, relates only to the release of dower. It was in force until Mar. 1, 1847, when the Revised Statutes of 1846 took effect.

**565.282 Validation of acknowledgments.**

Sec. 2.

Any acknowledgment of any married woman to a deed of conveyance or other instrument affecting real property taken since the fourth day of August, A.D. 1875, in the same manner as if such married woman had been sole, is hereby declared valid and effectual for all intents and purposes, and shall be so held in all courts and places.

**History:** 1877, Act 62, Imd. Eff. Apr. 20, 1877 ;-- How. 5662a ;-- CL 1897, 8967 ;-- CL 1915, 11699 ;-- CL 1929, 13338 ;-- CL 1948, 565.282

**UNRECORDED DEEDS**

**Act 188 of 1881**

AN ACT requiring the holders of unrecorded deeds to record such deeds, or furnish the same for record.

**History:** 1881, Act 188, Eff. Sept. 10, 1881

*The People of the State of Michigan enact:*



**565.291 Unrecorded deeds held by grantor; recording.**

Sec. 1.

That whenever any grantor, who has heretofore conveyed or shall hereafter convey, any real estate within this state, shall have or hold in his possession any unrecorded deed or deeds through or under which he derived title of any lands by him so conveyed, it shall be his duty on the written request of his grantee or any subsequent grantee, to cause such deed or deeds to be recorded in the office of the register of deeds of the proper county, or cause the same to be delivered to such grantee demanding the same for the purpose of recording, within 20 days from the time when such written request shall have been served upon him.

**History:** 1881, Act 188, Eff. Sept. 10, 1881 ;-- How. 5714 ;-- CL 1897, 9029 ;-- CL 1915, 11764 ;-- CL 1929, 13342 ;-- CL 1948, 565.291

**565.292 Unrecorded deeds; failure to record or deliver to grantee; penalty; civil liability.**

Sec. 2.

If such grantor shall neglect or refuse to record such deed or deliver the same to such grantee after having been requested so to do, as provided in the preceding section, within the time above limited, he shall be liable to said grantee, his heirs, representatives or assigns, in the penal sum of 100 dollars damages, and also for all actual damages occasioned by such neglect or refusal to the person or persons entitled thereto, to be recovered in an action on the case with costs of suit.

**History:** 1881, Act 188, Eff. Sept. 10, 1881 ;-- How. 5715 ;-- CL 1897, 9030 ;-- CL 1915, 11765 ;-- CL 1929, 13343 ;-- CL 1948, 565.292

**LAND PATENTS**

**Act 21 of 1837**

AN ACT to provide for recording patents for land and for other purposes.

**History:** 1837, Act 21, Imd. Eff. Feb. 23, 1837

*The People of the State of Michigan enact:*

**565.301 Land patents; recording; existing records; validation, use as evidence.**

Sec. 1.

It shall be the duty of the registers of deeds, in the several counties of this state, to receive for record, and record all patents of lands, from the United States, or this state, or any copy thereof, duly certified by the commissioner of the United States general land office, or by the secretary of state of this state, or other officer having the legal custody of the records of any such patents, in the same manner and with like effect, as by existing law he is required to receive and record deeds and conveyances; and it shall be the duty of the secretary of state of this state, to record all patents of lands issued by this state, in suitable records; and the existing record of patents, in the office of the secretary of state of this state, and all copies of the record of patents heretofore made and certified to by the secretary of state of this state, and recorded by the register of deeds of any county of this state, are hereby declared legal records, and shall have the same force and effect as if recorded after the passage of this act, and such certified copies of the record of patents heretofore recorded in the office of said secretary of state, and the record of such certified copies may be read in evidence in all courts of this state with the same force and effect as the original patents.

**History:** 1837, Act 21, Imd. Eff. Feb. 23, 1837 ;-- CL 1857, 2764 ;-- CL 1871, 4257 ;-- Am. 1875, Act 46, Eff. Aug. 3, 1875 ;-- Am. 1877, Act 33, Imd. Eff. Mar. 22, 1877 ;-- How. 5679 ;-- CL 1897, 8984 ;-- CL 1915, 11717 ;-- CL 1929, 13344 ;-- CL 1948, 565.301

**565.302 Record of patent as evidence.**

Sec. 2.

The record of a patent, recorded in the register's office or a transcript of such record certified by the register in whose office the same may be recorded, under his hand, may be read in evidence, in any court in this state, without further proof thereof.

**History:** 1837, Act 21, Imd. Eff. Feb. 23, 1837 ;-- CL 1857, 2765 ;-- CL 1871, 4258 ;-- How. 5680 ;-- CL 1897, 8985 ;-- CL 1915, 11718 ;-- CL 1929, 13345 ;-- CL 1948, 565.302

**LOST DEEDS AND OTHER INSTRUMENTS**

**Act 59 of 1875**

AN ACT to provide for recording certified copies of lost deeds, and other instruments affecting the title to real estate.

**History:** 1875, Act 59, Eff. Aug. 3, 1875

*The People of the State of Michigan enact:*

**565.321 Lost or destroyed instrument; recordination of certified transcript; procedure.**

Sec. 1.

In all cases where a deed, mortgage, or other instrument affecting the title to real estate, shall have been, or shall be executed, affecting land in 2 or more counties, and when the same shall have been duly recorded in the office of the register of deeds in any county in which any part of the lands to be affected thereby is situate, and such instrument shall have been lost or destroyed before being recorded in other counties in which land affected thereby shall be situate, it shall be lawful for any party, or parties interested in such lost deed, or other writing, or in the real estate the title to which shall be affected thereby, to apply to the judge of the probate court of the county where such real estate may be situate in which the record shall not have been made, for an order to record a duly certified transcript of such deed, mortgage or other instrument, in such county, and thereupon such judge of probate shall give notice, by publication in accordance with the practice of such court, for 3 successive weeks, of such application, and of the time and place, when and where, a hearing will be had thereon, and on such hearing, if it shall appear to such probate judge that such deed, mortgage or other instrument, was duly executed, and has been legally recorded in any county in this state, and that the same was lost or destroyed before being recorded in other counties in which real estate to be affected thereby was situate, such probate judge shall make an order authorizing a

certified transcript of such deed, mortgage, or other writing, to be recorded in said county, and shall annex a duly certified copy of such order to such copy of such deed, mortgage, or other instrument, and thereupon such certified copy of deed, mortgage, or other instrument, and such order authorizing a record thereof, may be recorded in the office of the register of deeds of the county in which such order shall be made, and such record shall have the same force and effect as the record of the original would have had had the same been recorded before being lost or destroyed.

**History:** 1875, Act 59, Eff. Aug. 3, 1875 ;-- How. 5717 ;-- CL 1897, 9031 ;-- CL 1915, 11766 ;-- CL 1929, 13346 ;-- CL 1948, 565.321

## REPLACING DEED GIVEN AT JUDICIAL SALE

### Act 71 of 1877

AN ACT to provide for replacing conveyances made on judicial sales, and which may have been lost or destroyed.

**History:** 1877, Act 71, Eff. Aug. 21, 1877

*The People of the State of Michigan enact:*

#### 565.331 New deed; execution and recording upon loss or destruction of deed given at judicial sale.

Sec. 1.

That whenever it shall be made to appear to any court of record by petition duly verified that a sale of real estate has or may hereafter be made in pursuance of a decree or order, or to satisfy any judgment of such court, and that a deed has been made therein, and said deed has not been recorded in the proper registry of deeds, but has been lost or destroyed; said court, upon due proof of such fact, may by order to be made in the cause in which such decree, order, or judgment was entered, direct a new deed to be made in place of the said original deed so lost or destroyed; said deed, when executed, may be acknowledged and recorded in the proper registry of deeds, and shall be as valid to convey the interest sold, and it, or the record thereof, shall have the same effect as evidence as said original deed would have.

**History:** 1877, Act 71, Eff. Aug. 21, 1877 ;-- How. 5718 ;-- CL 1897, 9032 ;-- CL 1915, 11767 ;-- CL 1929, 13347 ;-- CL 1948, 565.331

#### 565.332 New deed; person to execute.

Sec. 2.

Such new deed shall be executed by the officer who made such sale, or by his successor in office: Provided, That in counties having 2 circuit court commissioners, if the commissioner who made such sale shall not be then in office, either of the then commissioners may be directed to execute the new conveyance: And provided further: That if such sale shall have been made by an executor, administrator, or guardian, or by any special commissioner appointed for that purpose by any court the court may direct the person who made such sale to execute such new deed, if he be within the jurisdiction of the court, but if he be dead, or be not within such jurisdiction, the court may appoint some proper person to execute such new deed.

**History:** 1877, Act 71, Eff. Aug. 21, 1877 ;-- How. 5719 ;-- CL 1897, 9033 ;-- CL 1915, 11768 ;-- CL 1929, 13348 ;-- CL 1948, 565.332

#### 565.333 Notice of application; personal service, publication.

Sec. 3.

No conveyance shall be made under this act, excepting upon notice of the application, which notice shall be by personal service thereof, except where the opposite party or parties are non-residents of the state, in which latter case, the court may order publication of such notice in 1 or more newspapers published in the county where the court may be held and the land may be situated, for such time as the court may order, not less than once a week for 4 successive weeks.

**History:** 1877, Act 71, Eff. Aug. 21, 1877 ;-- How. 5720 ;-- CL 1897, 9034 ;-- CL 1915, 11769 ;-- CL 1929, 13349 ;-- CL 1948, 565.333

## LAND CONTRACTS

### Act 237 of 1879

AN ACT to provide for the execution, acknowledgment, and recording of contracts for the sale of land.

**History:** 1879, Act 237, Eff. Aug. 30, 1879

*The People of the State of Michigan enact:*

#### 565.351 Land contract; acknowledgment; endorsement.

Sec. 1.

A contract for the sale of land or any interest in that land shall be executed by the vendor named in the contract, and acknowledged before any judge or before any notary public within this state, and the officer taking the acknowledgment shall endorse a certificate of the acknowledgment and the date of making the acknowledgment under his or her hand.

**History:** 1879, Act 237, Eff. Aug. 30, 1879 ;-- How. 5709 ;-- CL 1897, 9035 ;-- CL 1915, 11770 ;-- CL 1929, 13350 ;-- CL 1948, 565.351 ;-- Am. 1991, Act 140, Imd. Eff. Nov. 25, 1991 ;-- Am. 2002, Act 20, Imd. Eff. Mar. 4, 2002

#### 565.352 Land contract; execution and acknowledgment in another state.

Sec. 2.

If any such contract be executed in any other state, district or territory, the same shall be executed and acknowledged in the same manner as provided in section 9 of chapter 150 of the Compiled Laws of 1871, for the execution of deeds in any other state, district, or territory.

**History:** 1879, Act 237, Eff. Aug. 30, 1879 ;-- How. 5710 ;-- CL 1897, 9036 ;-- CL 1915, 11771 ;-- CL 1929, 13351 ;-- CL 1948, 565.352  
**Compiler's Notes:** For provisions of section 9, referred to in this section, see MCL 565.9.

#### **565.353 Land contract; execution and acknowledgment in foreign country.**

Sec. 3.

If any such contract be executed in any foreign country, it may be executed and acknowledged according to the provisions contained in section 11 of chapter 150 Compiled Laws of 1871, providing for the execution of deeds in any foreign country.

**History:** 1879, Act 237, Eff. Aug. 30, 1879 ;-- How. 5711 ;-- CL 1897, 9037 ;-- CL 1915, 11772 ;-- CL 1929, 13352 ;-- CL 1948, 565.353  
**Compiler's Notes:** For provisions of section 11, referred to in this section, see MCL 565.11.

#### **565.354 Land contract; recording, effect.**

Sec. 4.

Any contract executed and acknowledged, according to the foregoing provisions, shall, with the certificates [certificate] thereto attached, be entitled to be recorded in the office of the register of deeds of the county where the lands lie, and the recording of the same shall have the same force and effect, as to subsequent encumbrancers and purchasers, as the recording of deeds and mortgages as now provided by law.

**History:** 1879, Act 237, Eff. Aug. 30, 1879 ;-- How. 5712 ;-- CL 1897, 9038 ;-- CL 1915, 11773 ;-- CL 1929, 13353 ;-- CL 1948, 565.354

#### **565.355 Repealed. 1998, Act 106, Imd. Eff. June 3, 1998.**

**Compiler's Notes:** The repealed section pertained to refusal to discharge land contract.

#### **565.356 Definitions.**

Sec. 6.

As used in this act:

- (a) "Assignee" means assignee of the vendor named in a land contract, a succeeding assignee, or a land contract mortgagee who became the absolute holder of the land contract as a result of security enforcement procedures.
- (b) "Grantee" means grantee of the vendor named in a land contract, a succeeding grantee, or a grantee pursuant to a mortgage foreclosure of a mortgage upon the land but subordinate to the land contract.
- (c) "Land contract mortgage" means a mortgage granted by a vendor or a vendee.
- (d) "Land contract mortgagee" means the holder of a land contract mortgage granted by a vendor or vendee, or his or her heirs, successors, or assigns.
- (e) "Nonmortgaging vendee" means a vendee who has not entered into a land contract mortgage granted by his or her vendor.
- (f) "Nonmortgaging vendor" means a vendor who has not entered into a land contract mortgage granted by his or her vendee.
- (g) "Real estate mortgage" means a mortgage granted upon an interest in real property, other than a mortgage upon a vendor's or vendee's interest in a land contract unless the vendor and the vendee join in or subject their respective interests to a single mortgage. A land contract mortgage is not a real estate mortgage.
- (h) "Third parties" means persons or entities other than the vendor, vendee, nonmortgaging vendor, nonmortgaging vendee, assignee, grantee, or land contract mortgagee, who have or claim an interest in or encumbrance upon real property or a vendor's or vendee's interest which is subject to a land contract mortgage.
- (i) "Vendee" means the vendee named in the land contract and the vendee's heirs, successors, or assigns.
- (j) "Vendor" means the vendor named in the land contract and the vendor's heirs, successors, or assigns.

**History:** Add. 1998, Act 106, Imd. Eff. June 3, 1998 ;-- Am. 2002, Act 147, Imd. Eff. Apr. 2, 2002

#### **565.357 Land contract mortgage as security to debt or obligation; rights and interests of vendor or vendee; encumbrance; applicability of act to real estate mortgage; act additional to existing rights and remedies.**

Sec. 7.

(1) A vendor or a vendee under a land contract may grant a land contract mortgage to secure any debt or obligation that may be secured by a real estate mortgage. This subsection does not alter the effect of any contractual provisions which prohibit or result in a default upon the mortgage, sale, assignment, or further encumbrance of a vendor's or vendee's interest in a land contract which would otherwise be enforceable.

(2) For the purposes of sections 6 to 11, the respective interests of a vendor or a vendee subject to a land contract mortgage includes all of the respective rights of a vendor or vendee including, without limitation, the vendor's rights to payments and the vendee's rights to conveyance. For the purposes of sections 6 to 11, the interests of vendors and vendees subject to a land contract mortgage are real property interests.

(3) Unless otherwise provided by the parties, a land contract mortgage encumbers all of the vendor's or vendee's interests that are mortgaged, whether real, personal, or mixed, in the same manner and to the same extent as a real estate mortgage.

(4) This act does not apply to real estate mortgages unless the parties otherwise agree.

(5) This act is in addition to existing rights and remedies at law with respect to the financing and encumbering of the vendor's and vendee's interests in land contracts.

**History:** Add. 1998, Act 106, Imd. Eff. June 3, 1998

#### **565.358 Land contract mortgage; document; form; execution, acknowledgment, and recording; identification of encumbered interest; perfection of mortgage; priority.**

Sec. 8.

(1) Any document that would be sufficient to constitute a real estate mortgage upon an interest in real property shall constitute a land contract mortgage upon the vendor's or vendee's interest.

- (2) A land contract mortgage shall be in a form and shall be executed, acknowledged, and recorded in the same manner as provided for real estate mortgages.
- (3) A land contract mortgage need not specifically identify the interest encumbered as a vendor's or vendee's interest.
- (4) A land contract mortgage that is recorded in the manner provided for real estate mortgages is perfected for all purposes, without filing, under the uniform commercial code, 1962 PA 172, MCL 440.1101 to 440.11102, any notice to the nonmortgaging vendor or the nonmortgaging vendee or the taking of possession of the original land contract document or otherwise. A land contract mortgage perfected in accordance with this section takes priority as a matter of law over all other mortgages, liens, security, or other interests in such vendor's or vendee's interests except those as to which a real estate mortgage would be subordinate.

**History:** Add. 1998, Act 106, Imd. Eff. June 3, 1998

#### **565.359 Land contract mortgage; enforcement; foreclosure; additional remedies.**

Sec. 9.

- (1) A land contract mortgage may be enforced in accordance with any existing procedure for the enforcement of a real estate mortgage, including, without limitation, foreclosure by advertisement and judicial foreclosure. Upon completion of a foreclosure by advertisement or judicial foreclosure of a land contract mortgage and the expiration of the applicable redemption period, the successful bidder at foreclosure shall succeed to all of the mortgaged interests of the respective foreclosed vendor or vendee.
- (2) Other rights and remedies that may be available to a real estate mortgagee, including, without limitation, future advance mortgages, assignments of rents, or receiverships may, in a proper case, be applied in favor of a land contract mortgagee.
- (3) All remedies that existed before the effective date of sections 6 to 11 shall continue to apply. However, a land contract mortgage made pursuant to this act may, at the option of the land contract mortgagee, also be enforced as provided in this act.

**History:** Add. 1998, Act 106, Imd. Eff. June 3, 1998

#### **565.360 Nonmortgaging vendor or vendee; rights or remedies affected; duties; payments; conditions; duties of third party.**

Sec. 10.

- (1) A land contract mortgage shall not, absent voluntary subordination as provided by law, encumber or otherwise affect the rights or remedies of the nonmortgaging vendor or the nonmortgaging vendee except as otherwise provided in subsection (2) or (3).
- (2) If the vendee's interest is encumbered by a recorded land contract mortgage, the nonmortgaging vendor shall do all of the following:
  - (a) Provide the same notices with respect to the remedies of forfeiture and foreclosure to the land contract mortgagee as are required to be provided to the vendee.
  - (b) Name the land contract mortgagee as a party in interest in any legal proceeding, the effect of which would be to terminate the vendee's interest, and thus the land contract mortgagee's lien.
  - (c) Accept from the land contract mortgagee any cure of any default that the nonmortgaging vendor would be obligated to accept from the vendee.
- (3) A nonmortgaging vendee, when the vendor's interest has been subjected to a land contract mortgage, shall continue to make payments in accordance with the land contract's terms to the vendor or assignee until any of the following occur:
  - (a) Notice to the vendee of the completion of foreclosure and the expiration, without redemption, of the applicable redemption period with respect to the land contract mortgage, after which all payments shall be made to the successful bidder at the foreclosure, or the successful bidder's heirs, successors, and assigns. However, if the vendee has actual notice of the foreclosure sale, installment payments shall be made during the redemption period as provided in section 6058 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6058.
  - (b) If the land contract mortgage contains a collateral assignment of the payments of the vendee under the land contract, delivery to the vendee of a notice of default signed under oath by the land contract mortgagee asserting that a default exists under the land contract mortgage together with a copy of the recorded land contract mortgage containing the collateral assignment and a demand that all further payments under the land contract be made to the land contract mortgagee, after which all payments shall thereafter be made in accordance with that notice.
- (4) A third party asserting a prior lien or interest to that of a land contract mortgagee whose land contract mortgage has been recorded shall do all of the following:
  - (a) Provide to the land contract mortgagee copies of all notices that must be provided to the vendor or vendee as a prerequisite to the assertion or enforcement of the third party rights or remedies, but only to the extent that those notices would be required to be provided if the vendor or vendee were the fee owner of the real property and the land contract mortgage were a mortgage upon the fee.
  - (b) Name the land contract mortgagee as a party in interest in any legal proceeding, the effect of which would be to terminate, assert, or enforce a prior lien or encumbrance upon the vendor's or vendee's interest that is subject to the land contract mortgage.
  - (c) Accept from the land contract mortgagee any payment, performance, or cure that the third party would be obligated to accept from the vendor or the vendee.

**History:** Add. 1998, Act 106, Imd. Eff. June 3, 1998

#### **565.361 Payment and performance of contract obligations; conveyance of land; discharge of land contract mortgage or release of security assignment; failure or refusal to make conveyance or discharge; penalties; enforcement; title as marketable; subordination to other real estate interest.**

Sec. 11.

- (1) When the vendee named in a land contract, or his or her heirs, successors, or assigns, has fully paid and performed the obligations under the contract that are a precondition to the sale and conveyance of the land, the vendor named in the contract shall make conveyance of the land to the vendee by a deed of conveyance as specified in the land contract, or, if the form of the deed is not specified in the land contract, by an appropriate deed. Until the vendor named in the contract has ceased in law to be bound by the provisions of the contract, the obligation to convey the land remains a continuing executory obligation on the part of the vendor.
- (2) The vendor named in the land contract who has assigned his or her interest in the contract or sold or mortgaged the land subject to the contract, whether absolutely or as collateral security, shall remain fully obligated to deliver a deed of conveyance as provided in subsection (1). However, if the assignee assumed the conveyancing obligation of the vendor, the original vendor is only secondarily liable for that obligation.
- (3) When the vendee named in a land contract, or his or her heirs, successors, or assigns, has fully paid and performed the obligations that are a precondition to the sale and conveyance of the land subject to the contract, the assignee and all succeeding assignees, including the holder of a land contract vendor's interest who has become the absolute holder of that interest as a result of security enforcement procedures after an assignment of the vendor's interest as collateral security, and the grantee, and all succeeding grantees including any grantee pursuant to a mortgage foreclosure regarding a mortgage made upon the land but subject to the land contract in any deed of the land given subject to the land contract by the vendor, shall make the conveyance of the land to the vendee. The conveyance shall be made as specified in the land contract if the vendor's assignee or grantee has assumed the vendor's continuing executory conveyancing obligation, or by quitclaim deed if the vendor's assignee or grantee has not assumed the vendor's conveyancing obligation. However, an assignee named in the contract who has not assumed the conveyancing obligation of the vendor and who has reassigned the entire vendor's interest and, therefore, retains no further interest, whether absolute or as security, has no obligation to provide a deed of conveyance.
- (4) When the vendee named in the land contract, or his or her heirs, successors, or assigns, has fully paid and performed the obligations under the contract that are a precondition to the sale and conveyance of the land, the land contract mortgagee under any land contract mortgage of the land made by the vendor subject to the land contract, or the assignee of any assignment for collateral security purposes of the vendor's interest under the land contract, shall execute a discharge of the land contract mortgage or a release of the security assignment in the same manner as now provided by law for the discharge of mortgages.
- (5) When the vendor named in the land contract has ceased in law to be bound by the provisions of the contract, and is entitled to a release from the contract, the vendee named in the contract, or his or her heirs, successors, or assigns, including, without limitation, any land contract mortgagees or other parties claiming a lien or security interest upon or in the vendee's interests in the contract, shall, when requested by the vendor, execute a discharge of the contract in the same manner as now provided by law for the discharge of mortgages.
- (6) A person who is required under this section to enter into a conveyance or discharge and who fails or refuses to make the conveyance or discharge is subject to the same penalties, and to any other penalties or remedies existing before the effective date of this act, as are now provided by law for a refusal to discharge a real estate mortgage after the real estate mortgage has been fully paid. The party entitled to the conveyance or discharge may enforce the conveyance or discharge as provided in section 44 of 1846 RS 65, MCL 565.44, for enforcing the discharge of mortgages. The petition or bill asking for the discharge shall contain all the material averments regarding the matter as required by that section in regard to mortgages, as applicable to land contracts. However, a land contract is not invalid for want of acknowledgment or recording.
- (7) This section does not render a title unmarketable if that title would otherwise have been marketable.
- (8) For the purposes of this act, a mortgage, deed, or land contract is subject to another real estate interest if, by its terms or by an independent voluntary subordination, it is

subordinate to the other real estate interest or, as a matter of law, it would be automatically subordinate to the other real estate interest.

**History:** Add. 1998, Act 106, Imd. Eff. June 3, 1998

## FRAUDULENT CONVEYANCES

### Act 98 of 1883

AN ACT to prohibit persons from procuring or placing upon record spurious or fraudulent conveyances of real estate, with intent to deceive; to prohibit drafting or submitting to the register of deeds a fraudulent document; and to prescribe penalties.

**History:** 1883, Act 98, Eff. Sept. 8, 1883 ;-- Am. 2024, Act 154, Eff. Apr. 2, 2025

*The People of the State of Michigan enact:*

#### 565.371 Recording fraudulent conveyance of realty; penalty.

Sec. 1.

(1) A person that procures or places upon record any conveyance of real estate with intent to deceive any person as to the veracity of the document recorded is guilty of a felony punishable by imprisonment for not more than 3 years or a fine of not more than \$5,000.00, or both.

(2) A person that knowingly and willfully drafts or submits a document to be filed and recorded with a register of deeds in this state with intent to defraud the owner of real estate or the owner of an interest in real estate is guilty of a felony punishable by imprisonment for not more than 10 years, a fine of not more than \$5,000.00, or both.

(3) If the register of deeds believes a document was submitted to the register of deeds in violation of this section, the register of deeds may provide evidence of the violation to the county prosecutor in the county where the register of deeds is located.

**History:** 1883, Act 98, Eff. Sept. 8, 1883 ;-- How. 9234a ;-- CL 1897, 11687 ;-- CL 1915, 15461 ;-- CL 1929, 13355 ;-- CL 1948, 565.371 ;-- Am. 2024, Act 154, Eff. Apr. 2, 2025

## RECORDING AFFIDAVIT OF RENEWAL OF MORTGAGE

### Act 216 of 1929

AN ACT to provide for the recording after the due date thereof of affidavits for renewal of real estate mortgages; to establish the legal effect thereof and to provide that real estate mortgages not renewed by affidavit or extension agreement within a certain period after recording, shall be considered as discharged.

**History:** 1929, Act 216, Imd. Eff. May 20, 1929 ;-- Am. 1951, Act 8, Eff. Sept. 28, 1951

*The People of the State of Michigan enact:*

#### 565.381 Affidavit of mortgage renewal; recording.

Sec. 1.

The register of deeds of each county shall provide, at the expense of the county, books of record for the recording of affidavits of renewal of real estate mortgages, and shall record therein such affidavits when presented for that purpose when accompanied by a fee therefor at the same rate as for other instruments.

**History:** 1929, Act 216, Imd. Eff. May 20, 1929 ;-- CL 1929, 13356 ;-- CL 1948, 565.381

#### 565.382 Affidavit of mortgage renewal; time limitation, effect.

Sec. 2.

Every mortgage not renewed by the affidavit of the owner or 1 of the owners thereof, or by the affidavit of the agent or attorney of the owner or owners, showing the amount remaining unpaid on said mortgage, or by extension agreement, filed in the office of the register of deeds of the county in which the lands are situated which are covered by said mortgage, within 30 years after the due date as set forth in said mortgage, or when no due date is set forth in said mortgage, then within 30 years after the recording of said mortgage, shall be considered as discharged.

**History:** 1929, Act 216, Imd. Eff. May 20, 1929 ;-- CL 1929, 13357 ;-- CL 1948, 565.382 ;-- Am. 1951, Act 8, Eff. Sept. 28, 1951

#### 565.383 Effective date for preceding section.

Sec. 3.

The operation of section 2 of this act shall be deferred for 3 months after the taking effect of the act in general.

**History:** 1929, Act 216, Imd. Eff. May 20, 1929 ;-- CL 1929, 13358 ;-- CL 1948, 565.383

#### 565.384 Mortgage tax; effect of act.

Sec. 4.

Nothing contained in this act shall be construed to require the payment of a mortgage tax by reason of the recording of any affidavit of renewal.

**History:** 1929, Act 216, Imd. Eff. May 20, 1929 ;-- CL 1929, 13359 ;-- CL 1948, 565.384

## RECORDING WAIVER OF PRIORITY OF MORTGAGE

### Act 236 of 1929

AN ACT to provide for the recording of waivers of priority of mortgages, and to make such record thereof constructive notice to all persons dealing with mortgages, the lien of which has been waived and with the property described in said mortgage; also to provide for the fees for the recording thereof.

**History:** 1929, Act 236, Eff. Aug. 28, 1929

*The People of the State of Michigan enact:*

#### 565.391 Waiver of mortgage priority; recording; fees.

##### Sec. 1.

The holder of a mortgage of property located in this state that is the mortgagee named in the mortgage or a person to whom the mortgage has been properly assigned of record may waive the priority of the mortgage in favor of another lien or mortgage by executing a separate instrument acknowledged in the same manner as required for deeds and other instruments for the transfer of an interest in real estate. The waiver is effective to the extent of the lien of the mortgage waived. Recording of the waiver is constructive notice of the waiver to all persons dealing with the mortgage or with property described in the mortgage from the date the waiver is recorded. A waiver recorded under this section must be recorded in the same manner as are discharges of mortgages, and the register of deeds is entitled to the same fee as is charged for recording a real estate mortgage under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567.

**History:** 1929, Act 236, Eff. Aug. 28, 1929 ;-- CL 1929, 13360 ;-- CL 1948, 565.391 ;-- Am. 2018, Act 192, Eff. Sept. 18, 2018

## RECORDING JUDGMENT AFFECTING TITLE TO REALTY

### Act 5 of 1873

AN ACT to provide for the recording of judgments in actions affecting or relating to the title of real estate.

**History:** 1873, Act 5, Eff. July 31, 1873

*The People of the State of Michigan enact:*

#### 565.401 Judgment relating to realty title; copy recordation; effect; social security number; removal.

##### Sec. 1.

(1) If a final judgment is rendered in any suit or action at law that affects or relates to the title of real estate, by a court with competent jurisdiction, a copy of the judgment, duly certified by the clerk of the court and under the seal of the court, may be received and recorded in the office of the register of deeds for the county where the real estate is situated. When recorded, the judgment has the same effect as evidence and notice of title as the recording of deeds and other conveyances, and the register of deeds is entitled, for the recording of the judgment, to the same fees as for the recording of deeds.

(2) Unless state or federal law, rule, regulation, or court order or rule requires that all or more than 4 sequential digits of the social security number appear in the judgment, a register of deeds shall not receive a judgment for recording unless the first 5 digits of any social security number appearing in or on the judgment are obscured or removed.

**History:** 1873, Act 5, Eff. July 31, 1873 ;-- How. 7985 ;-- CL 1897, 9043 ;-- CL 1915, 11778 ;-- CL 1929, 13361 ;-- CL 1948, 565.401 ;-- Am. 2007, Act 57, Imd. Eff. Sept. 12, 2007

## RECORDING JUDGMENTS AND DECREES AS TO LANDS

### Act 107 of 1895

AN ACT to provide for recording in the offices of registers of deeds certified copies of judgments and decrees of courts of record and making the record thereof evidence in courts, and making such records heretofore made like evidence.

**History:** 1895, Act 107, Eff. Aug. 30, 1895

*The People of the State of Michigan enact:*

#### 565.411 Judgment or decree affecting realty title; copy recordation.

##### Sec. 1.

That whenever any circuit court, court of chancery, probate court, or other court of record in this state, shall have rendered any final judgment or decree by the terms of which any person or persons shall be decided to be the owner or owners of any land in this state described therein, or wherein any person or persons shall be determined to be the heirs and entitled to inherit the lands of any deceased owner, or whereby any lands shall be distributed, assigned or partitioned to any person or persons, a copy of such judgment or decree duly certified under the seal of such court may be recorded in the office of the register of deeds of any county or counties in which lands described in or affected by such judgment or decree shall be situated.

**History:** 1895, Act 107, Eff. Aug. 30, 1895 ;-- Am. 1897, Act 133, Eff. Aug. 30, 1897 ;-- CL 1897, 9044 ;-- CL 1915, 11779 ;-- CL 1929, 13362 ;-- CL 1948, 565.411

#### 565.412 Recording fee; fees to be turned over to county treasurer.

Sec. 2.

A register of deeds is entitled to the same fee for recording a certified copy under section 1 as the fee for recording a real estate mortgage under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567. If the register of deeds receives an annual salary from the county, he or she shall turn over all fees collected under this section to the county treasurer.

**History:** 1895, Act 107, Eff. Aug. 30, 1895 ;-- CL 1897, 9045 ;-- CL 1915, 11780 ;-- CL 1929, 13363 ;-- CL 1948, 565.412 ;-- Am. 2016, Act 232, Eff. Oct. 1, 2016

## RECORDING TRUST INSTRUMENT OR CERTIFICATE OF TRUST

### Act 133 of 1991

AN ACT to allow the use and recording of certain documents regarding trusts in the case of real property that is conveyed or otherwise affected by a trust; and to prescribe their effect.

**History:** 1991, Act 133, Imd. Eff. Nov. 6, 1991

*The People of the State of Michigan enact:*

**565.431 Instrument affecting interest in real property executed pursuant to express trust; copy of operative trust instrument or certificate of trust; "trust instrument" defined.**

Sec. 1.

An instrument that conveys, encumbers, or otherwise affects real property, executed pursuant to an express trust, may be accompanied by either of the following:

(a) A copy of each operative trust instrument. As used in this subdivision, "trust instrument" means that term as defined in section 7103 of the estates and protected individuals code, 1998 PA 386, MCL 700.7103.

(b) A certificate of trust under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913, that includes the legal description of the affected real property.

**History:** 1991, Act 133, Imd. Eff. Nov. 6, 1991 ;-- Am. 2018, Act 492, Imd. Eff. Dec. 27, 2018

**565.432, 565.433 Repealed. 2018, Act 492, Imd. Eff. Dec. 27, 2018.**

**Compiler's Notes:** The repealed sections pertained to the contents, form, and execution of a certificate of trust existence and authority.

**565.434 Trust instrument or certificate of trust; recording.**

Sec. 4.

A trust instrument or certificate of trust under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913, that accompanies an instrument as described in section 1, and any amendments to or revocations of the trust instrument or the certificate of trust under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913, may be recorded in the office of the register of deeds of each county where the lands that are the subject of or affected by the trust instrument are located. If a trust instrument or certificate of trust under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913, accompanies an instrument as described in section 1, the trust instrument or certificate of trust under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913, must be recorded as a separate document. As used in this section, "trust instrument" means that term as defined in section 7103 of the estates and protected individuals code, 1998 PA 386, MCL 700.7103.

**History:** 1991, Act 133, Imd. Eff. Nov. 6, 1991 ;-- Am. 2018, Act 194, Eff. Sept. 18, 2018 ;-- Am. 2018, Act 492, Imd. Eff. Dec. 27, 2018

**565.435 Protection afforded party relying on information in recorded certificate of trust; further examination of trust instrument.**

Sec. 5.

A purchaser or other party relying on the information included in a recorded certificate of trust under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913, has the same protection as is provided to a subsequent purchaser in good faith under section 29 of 1846 RS 65, MCL 565.29. A purchaser or other party described in this section is not required to further examine the trust instrument, unless an instrument amending or revoking the trust instrument or certificate of trust under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913, is recorded in the same office in which the trust instrument or certificate of trust under section 7913 of the estates and protected individuals code, 1998 PA 386, MCL 700.7913, was previously recorded. As used in this section, "trust instrument" means that term as defined in section 7103 of the estates and protected individuals code, 1998 PA 386, MCL 700.7103.

**History:** 1991, Act 133, Imd. Eff. Nov. 6, 1991 ;-- Am. 2018, Act 492, Imd. Eff. Dec. 27, 2018

**565.436 Repealed. 2018, Act 492, Imd. Eff. Dec. 27, 2018.**

**Compiler's Notes:** The repealed section pertained to indexing of a certificate of trust existence and authority.

## RECORDING AFFIDAVITS AFFECTING REAL PROPERTY

### Act 123 of 1915

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.

**History:** 1915, Act 123, Eff. Aug. 24, 1915 ;-- Am. 1937, Act 190, Imd. Eff. July 14, 1937 ;-- Am. 1965, Act 178, Imd. Eff. July 15, 1965

**565.451 Repealed. 1965, Act 178, Imd. Eff. July 15, 1965.**

**Compiler's Notes:** The repealed section pertained to affidavits as to parties to instruments, recording, and perjury.

**565.451a Affidavit stating facts relating to matters affecting realty; recording.**

**Sec. 1a.**

An affidavit stating facts relating to any of the following matters that may affect the title to real property in this state and made by any person having knowledge of the facts and competent to testify concerning those facts in open court may be recorded in the office of the register of deeds of the county where the real property is situated:

- (a) Birth, age, sex, marital status, death, name, residence, identity, capacity, relationship, family history, heirship, homestead status and service in the armed forces of parties named in deeds, wills, mortgages and other instruments affecting real property.
- (b) Knowledge of the happening of any condition or event that may terminate an estate or interest in real property.
- (c) Knowledge of surveyors registered under the laws of this state with respect to the existence and location of monuments and physical boundaries, such as fences, streams, roads, and rights of way of real property.
- (d) Knowledge of surveyors registered under the laws of this state reconciling conflicting and ambiguous descriptions in conveyances with descriptions in a regular chain of title.
- (e) Knowledge of facts incident to possession or the actual, open, notorious, and adverse possession of real property.
- (f) Knowledge of the purchaser, or if the purchaser is a corporation, of its president, vice president, secretary, or other authorized representative acting in a fiduciary or representative capacity, of real property sold upon foreclosure or conveyed in lieu of foreclosure of a trust mortgage or deed of trust securing an issue of bonds or other evidences of indebtedness, or of any mortgage, land contract, or other security instrument held by a fiduciary or other representative, as to the authority of the purchaser to purchase the real property and as to the terms and conditions upon which the real property is to be held and disposed of.
- (g) Knowledge of a person with respect to an unrecorded mortgage if the affidavit recites the names of the parties to the unrecorded mortgage and is accompanied by a copy of the unrecorded mortgage. The affidavit shall be indexed as provided in section 28 of 1846 RS 65, MCL 565.28, under the name of the affiant. This subdivision applies to any affidavit regarding a mortgage within its scope, even if the affidavit was recorded before the effective date of the amendatory act that added this subdivision. However, an affidavit recorded on or after the effective date of the amendatory act that added this subdivision shall also be indexed under the names of the parties to the mortgage. Furthermore, a copy of an unrecorded mortgage and affidavit shall not be received and recorded by the register of deeds on or after the effective date of the amendatory act that added this subdivision unless the affidavit and the copy of the mortgage are legible and the affidavit states all of the following:
  - (i) The names of the mortgagor and mortgagee.
  - (ii) A legal description of the property, the property tax identification number, and, if applicable, the address of the property.
  - (iii) That the original mortgage has been lost or destroyed.
  - (iv) That the original mortgage was signed by the parties to the unrecorded mortgage.
  - (v) That, to the best of the affiant's knowledge, the original mortgage was delivered from the mortgagor to the mortgagee.
  - (vi) That the affiant did 1 of the following, as applicable:
    - (A) Mailed a copy of the affidavit and unrecorded mortgage by first-class certified or registered mail, return receipt requested, to the mortgagor at the mortgagor's address last known to the affiant. Actual delivery of that mail or the return of a signed return receipt is not required for the purposes of this sub-subparagraph.
    - (B) Personally served a copy of the affidavit and unrecorded mortgage on the mortgagor.

**History:** Add. 1965, Act 178, Imd. Eff. July 15, 1965 ;-- Am. 2014, Act 348, Imd. Eff. Oct. 17, 2014

**565.451b Affidavit stating facts relating to matters affecting realty; perjury.**

**Sec. 1b.**

Any person who knowingly makes any false statement in an affidavit is guilty of perjury.

**History:** Add. 1965, Act 178, Imd. Eff. July 15, 1965

**565.451c Affidavit stating fact relating to matters affecting realty; land description.**

**Sec. 1c.**

The affidavit shall include a description of the land, title to which may be affected by facts stated in the affidavit. If there appears in the regular chain of title of the land a deed, will, mortgage or other instrument affecting the title which contains a full and adequate description of the land, the description may be incorporated in the affidavit by reference to the record of the instrument in the register of deeds office in lieu of including the full description of the land.

**History:** Add. 1965, Act 178, Imd. Eff. July 15, 1965

**565.451d Correction of errors or omissions; affidavit.**

**Sec. 1d.**

- (1) An affidavit to correct the following types of errors or omissions in previously recorded documents may be recorded in the office of register of deeds for the county where the real property that is the subject of the affidavit is located:
  - (a) Errors and omissions relating to the proper place of recording.
  - (b) Scrivener's errors and scrivener's omissions.
- (2) All of the following apply to an affidavit under subsection (1):
  - (a) The affidavit shall be made by a person who has knowledge of the relevant facts and is competent to testify concerning those facts in open court and shall meet the requirements of section 1c.
  - (b) The affidavit does not alter the substantive rights of any party unless it is executed by that party.
  - (3) The county register of deeds shall index all names recited within an affidavit recorded under subsection (1).
  - (4) Subsection (1) does not prohibit the recording of a corrected version of the previously recorded document indicating the corrective changes and making reference to the previously recorded document by liber and page number or by another unique identifying number.

**History:** Add. 2012, Act 336, Imd. Eff. Oct. 16, 2012



**565.452 Affidavit; register duties; fee; social security number.**

**Sec. 2.**

(1) The register of deeds of the county where an affidavit described in this act is offered for record shall receive and record it in the manner that deeds are recorded. The register of deeds shall collect the same fee for recording the affidavit as is provided by law for recording deeds.

(2) Unless state or federal law, rule, regulation, or court order or rule requires that all or more than 4 sequential digits of the social security number appear in the affidavit, a register of deeds shall not receive an affidavit for recording unless the first 5 digits of any social security number appearing in or on the affidavit are obscured or removed.

**History:** 1915, Act 123, Eff. Aug. 24, 1915 ;-- CL 1915, 11737 ;-- CL 1929, 13365 ;-- CL 1948, 565.452 ;-- Am. 1965, Act 178, Imd. Eff. July 15, 1965 ;-- Am. 2007, Act 54, Imd. Eff. Sept. 6, 2007

**565.453 Affidavit; use as evidence.**

**Sec. 3.**

The affidavit, whether recorded before or after the passage of this act, may be received in evidence in any civil cause, in any court of this state and by any board or officer of the state in any suit or proceeding affecting the real estate and shall be prima facie evidence of the facts and circumstances therein contained.

**History:** 1915, Act 123, Eff. Aug. 24, 1915 ;-- CL 1915, 11738 ;-- CL 1929, 13366 ;-- CL 1948, 565.453 ;-- Am. 1965, Act 178, Imd. Eff. July 15, 1965

**DISCHARGE OF LIENS ON REAL ESTATE**

**Act 172 of 1893**

565.481, 565.482 Repealed. 1980, Act 497, Eff. Mar. 1, 1982.

**RECORDING OF DEEDS, MORTGAGES, AND INSTRUMENTS OF RECORD**

**Act 20 of 1867**

AN ACT relative to recording deeds, mortgages and instruments of record, and to declare the effect thereof.

**History:** 1867, Act 20, Eff. June 27, 1867

*The People of the State of Michigan enact:*

**565.491 Instruments recordation; reproductions; delivery; social security number.**

**Sec. 1.**

(1) A register of deeds, upon the payment of the proper fee, shall record or cause to be recorded, at length, upon the pages of the proper record books in his or her office reproductions pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, of all deeds, mortgages, maps, and instruments or writings authorized by law to be recorded in his or her office, and left with him or her for that purpose. If the register of deeds receives an instrument to be recorded, he or she shall not deliver it to the parties, or either of them, or permit the instrument to go out of his or her office before it is duly entered at large upon the record.

(2) Unless state or federal law, rule, regulation, or court order or rule requires that all or more than 4 sequential digits of the social security number appear in the instrument, beginning on 1 of the following dates a register of deeds shall not receive an instrument or reproduction of an instrument for recording unless the first 5 digits of any social security number appearing in or on the instrument or reproduction are obscured or removed:

(a) Except as provided in subdivision (b), the effective date of the amendatory act that added this subsection.

(b) For an instrument or reproduction presented to the register of deeds by the department of treasury, April 1, 2008.

**History:** 1867, Act 20, Eff. June 27, 1867 ;-- CL 1871, 4254 ;-- How. 5677 ;-- CL 1897, 8982 ;-- Am. 1911, Act 122, Eff. Aug. 1, 1911 ;-- CL 1915, 11714 ;-- Am. 1921, Act 379, Eff. Aug. 18, 1921 ;-- CL 1929, 13372 ;-- CL 1948, 565.491 ;-- Am. 1992, Act 211, Imd. Eff. Oct. 5, 1992 ;-- Am. 2007, Act 53, Imd. Eff. Sept. 6, 2007

**565.492 Conveyance made under court order; indexing, record as evidence.**

**Sec. 2.**

When a deed or other conveyance made by an executor, administrator, guardian, commissioner, sheriff, marshal or person acting under authority of an order of court, is left for record, the register of deeds shall enter in the indexes of the officer or person the names of the testators, wards or persons who owned the estate, and from whom it passes when the same appear by such deed, and also the name of such executor, administrator, guardian, commissioner, sheriff, marshal, or other person executing the same; and when a decree or order for the partition of land, or the commissioner return thereof, is so left for record, the register shall enter in the indexes the names of all the persons whose estates plainly appear to be affected thereby. And all such deeds, the record, or a certified copy of such record, shall be in all courts and places prima facie evidence of the regularity of all the proceedings required by law anterior to such deeds, and of the authority of the grantor therein named to execute such deed or deeds.

**History:** 1867, Act 20, Eff. June 27, 1867 ;-- CL 1871, 4255 ;-- How. 5678 ;-- CL 1897, 8983 ;-- CL 1915, 11715 ;-- CL 1929, 13373 ;-- CL 1948, 565.492

**GENERAL INDEX OF RECORDS**

**Act 79 of 1841**

AN ACT to provide for making a general index to all books in the offices of the registers of deeds, of the respective counties of this state.

**History:** 1841, Act 79, Eff. May 13, 1841

*Be it enacted by the Senate and House of Representatives of the State of Michigan:*

**565.501 General index of records; duties and compensation of register.**

Sec. 1.

That the county commissioners of the respective counties of this state, be, and they are hereby authorized, if in the opinion of the commissioners they shall deem it necessary, to cause the registers of their respective counties, to prepare a general index to all books in their offices, used for the purpose of recording deeds, mortgages and other instruments, in order that the records containing the title of lands, may the more easily be preserved, and a search of said records, to ascertain such title, facilitated; and the said registers shall receive for their compensation such sum as the county commissioners may deem just and right.

**History:** 1841, Act 79, Eff. May 13, 1841 ;-- CL 1857, 2770 ;-- CL 1871, 4267 ;-- How. 5722 ;-- CL 1897, 9058 ;-- CL 1915, 11789 ;-- CL 1929, 13374 ;-- CL 1948, 565.501

**Compiler's Notes:** The office of county commissioners was abolished and its powers and duties transferred to the county boards of supervisors by Act 19 of 1842.

**565.502 General index of records; compensation of register for indexing instruments.**

Sec. 2.

That no compensation shall be allowed for indexing in the general index, deeds, mortgages and other instruments, that shall be left for record after the general index books shall be furnished to the registers of the respective counties, or when said books may have been already furnished, and the registers are hereby required without charge, to index all such deeds, mortgages, and other instruments in said general index.

**History:** 1841, Act 79, Eff. May 13, 1841 ;-- CL 1857, 2771 ;-- CL 1871, 4268 ;-- How. 5723 ;-- CL 1897, 9059 ;-- CL 1915, 11790 ;-- CL 1929, 13375 ;-- CL 1948, 565.502

**FAILURE TO KEEP UP REQUIRED INDEXES**

**Act 158 of 1887**

AN ACT providing for the forfeiture by every register of deeds in this state who shall neglect or refuse to keep up such indexes as are required by law, and for the recovery of the same.

**History:** 1887, Act 158, Eff. Sept. 28, 1887

*The People of the State of Michigan enact:*

**565.531 Index; failure to keep up; forfeiture.**

Sec. 1.

That every register of deeds who shall neglect or refuse to keep up such indexes as are required by law shall forfeit the sum of 10 dollars for each and every such neglect or refusal, which may be recovered in an action of debt before any court of competent jurisdiction.

**History:** 1887, Act 158, Eff. Sept. 28, 1887 ;-- How. 5723a ;-- CL 1897, 9060 ;-- CL 1915, 11791 ;-- CL 1929, 13376 ;-- CL 1948, 565.531

**INSPECTION OF RECORDS AND FILES**

**Act 54 of 1875**

An act to facilitate the inspection and reproduction of the records and files in the offices of the registers of deeds.

**History:** 1875, Act 54, Imd. Eff. Mar. 26, 1875 ;-- Am. 1992, Act 112, Imd. Eff. June 26, 1992

*The People of the State of Michigan enact:*

**565.551 Records of register of deeds; inspection and examination; reproduction; social security numbers; removal.**

Sec. 1.

(1) A register of deeds shall furnish proper and reasonable facilities for the inspection and examination of the records and files in his or her office, and for making memorandums or transcripts from the records and files during the usual business hours, to an individual having a lawful purpose to examine the records and files. However, the custodian of the records and files may make reasonable rules and regulations with reference to the inspection and examination of the records and files as is necessary to protect the records and files and to prevent interference with the regular discharge of the duties of the register of deeds.

(2) If an individual requests a reproduction of a record or file of a register of deeds, the register of deeds shall do 1 of the following, at the register of deeds' option:

(a) Reproduce the record or file for the individual pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, using a medium selected by the register of deeds.

Unless a different fee is provided for by law, the fee for a reproduction under this subdivision other than a paper copy shall not exceed the reasonable costs to the register of deeds.

(b) Provide equipment for the individual to reproduce the record or file pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, using a medium selected by the register of deeds. Unless a different fee is provided for by law, the fee for a reproduction under this subdivision other than a paper copy shall not exceed the reasonable costs to the register of deeds.

(c) Authorize the individual to reproduce the record or file on the premises using equipment provided by that individual. This subdivision does not apply unless the individual requests authorization to reproduce the record or file using equipment provided by that individual.

(3) A register of deeds may prohibit the reproduction of an instrument temporarily left with the register of deeds to be recorded in the register of deeds' office.

(4) Unless state or federal law, rule, regulation, or court order or rule requires that all or more than 4 sequential digits of the social security number appear in the record or file, if a record or file that contains a social security number is reproduced for or by an individual under subsection (2), the register of deeds may obscure or remove, or require that the individual obscure or remove all or at least the first 5 digits of the social security number from the reproduction before the individual removes the reproduction from the office of the register of deeds.

(5) An individual whose social security number is contained in 1 or more instruments in a county's books of record may request that the register of deeds of that county obscure or remove all or at least the first 5 digits of his or her social security number from copies made of those instruments by recording an affidavit identifying the liber and page of those instruments.

**History:** 1875, Act 54, Imd. Eff. Mar. 26, 1875 ;-- How. 5721 ;-- CL 1897, 9053 ;-- CL 1915, 11786 ;-- CL 1929, 13377 ;-- Am. 1931, Act 112, Eff. Sept. 18, 1931 ;-- CL 1948, 565.551 ;-- Am. 1992, Act 112, Imd. Eff. June 26, 1992 ;-- Am. 1994, Act 51, Imd. Eff. Mar. 31, 1994 ;-- Am. 2007, Act 58, Imd. Eff. Sept. 12, 2007

## RECORDS OF DEEDS AND OTHER CONVEYANCES

### Act 25 of 1836

AN ACT concerning the records of deeds and other conveyances of land.

**History:** 1836, Act 25, Imd. Eff. Mar. 24, 1836

*Be it enacted by the Senate and House of Representatives of the State of Michigan:*

#### **565.581 County attached to another for judicial purposes; record of instruments; copying, copy as evidence; social security number; removal; "books" defined.**

Sec. 1.

(1) By majority vote, the board of supervisors of an organized county that is attached to another county for judicial purposes may direct the register of deeds of the board's county, either in person or by deputy, to provide sufficient books, and procure and record in those books a complete copy of all deeds, mortgages, powers of attorney, or other instruments relating to the title of land belonging to the board's county and on record in the county to which it is attached; and it is the duty of that register or deputy under his or her oath of office to certify each and every copy so taken to be a true copy of the original record; and each copy so certified shall be received as evidence in all courts in this state, in the same manner and for the same purposes as the original record would be received.

(2) Unless state or federal law, rule, regulation, or court order or rule requires that the social security number appear in the instrument or copies of the instrument, if a register of deeds provides a person a copy of an instrument from a book of records that contains a social security number, the register of deeds may obscure or remove all or at least the first 5 digits of the social security number from the copy before providing it.

(3) An individual whose social security number is contained in 1 or more instruments in a county's books of record may request that the register of deeds of that county obscure or remove all or at least the first 5 digits of his or her social security number from copies made of those instruments by recording an affidavit identifying the liber and page of those instruments.

(4) As used in this act, "books" includes a computerized recording system for instruments relating to the title of land.

**History:** 1836, Act 25, Imd. Eff. Mar. 24, 1836 ;-- CL 1857, 2766 ;-- CL 1871, 4259 ;-- How. 5694 ;-- CL 1897, 9000 ;-- CL 1915, 11732 ;-- CL 1929, 13378 ;-- CL 1948, 565.581 ;-- Am. 2007, Act 55, Imd. Eff. Sept. 12, 2007

#### **565.582 Application of preceding section.**

Sec. 2.

All counties that now are or may hereafter be organized shall have all the rights and privileges specified in the first section of this act.

**History:** 1836, Act 25, Imd. Eff. Mar. 24, 1836 ;-- CL 1857, 2767 ;-- CL 1871, 4260 ;-- How. 5695 ;-- CL 1897, 9001 ;-- CL 1915, 11733 ;-- CL 1929, 13379 ;-- CL 1948, 565.582

#### **565.583 Register; duties, fees.**

Sec. 3.

It shall be the duty of the register of the county applying for a copy of records to transcribe the same in the book or books to be provided for that purpose as aforesaid; and the said register shall receive for his services the fees allowed to registers for recording deeds, to be paid out of the county treasury; and the register to whom application may be made as aforesaid is hereby authorized and directed to permit the register first mentioned in this section to have the use of the books and records in his office for the purpose aforesaid.

**History:** 1836, Act 25, Imd. Eff. Mar. 24, 1836 ;-- CL 1857, 2768 ;-- CL 1871, 4261 ;-- How. 5696 ;-- CL 1897, 9002 ;-- CL 1915, 11734 ;-- CL 1929, 13380 ;-- CL 1948, 565.583

#### **565.584 Register; additional compensation.**

Sec. 4.

The supervisors are authorized and directed to make such further compensation to the register who may transcribe such record as may be proper and just.

**History:** 1836, Act 25, Imd. Eff. Mar. 24, 1836 ;-- CL 1857, 2769 ;-- CL 1871, 4262 ;-- How. 5697 ;-- CL 1897, 9003 ;-- CL 1915, 11735 ;-- CL 1929, 13381 ;-- CL 1948, 565.584

## TRANSCRIBING RECORDS OF DEEDS, MORTGAGES, AND OTHER INSTRUMENTS

### Act 177 of 1879

AN ACT to provide for the transcribing of records of deeds, mortgages and other instruments in certain cases.

**History:** 1879, Act 177, Eff. Aug. 30, 1879

*The People of the State of Michigan enact:*

#### **565.591 Failure or mistake in copying records for new county; copy of original; right to obtain, recording.**

Sec. 1.

That when a new county has been, or shall be organized, in whole or in part, from an organized county, or from territory attached to such organized county for judicial purposes, and

the supervisors of such new county have or shall have neglected to cause copies or transcripts of the records of deeds, mortgages or other instruments relating to real estate in such new county, to be made as provided by law; or if from any cause the same has not, or shall not have been done; or in case there are or shall be informalities, irregularities or mistakes in the copying, transcribing or certifying of such records, then in either such case, any person may procure from the register of deeds of the county in which such original deed, mortgage or other instrument had been recorded, a copy, duly certified by such register, of the original record of any deed, mortgage or other instrument relative to or affecting the title of land, in which such person may be interested, and situated in such new county, and cause such certified copy to be recorded in the office of the register of deeds of the proper county. When any such certified copy shall be presented to the register of deeds of any county in this state, it shall be the duty of such register to record the same in the same manner and with like effect as original instruments or papers entitled to record in his office, and when so recorded, such record shall have the same effect in all respects as original records.

**History:** 1879, Act 177, Eff. Aug. 30, 1879 ;-- How. 5698 ;-- CL 1897, 9004 ;-- CL 1915, 11739 ;-- CL 1929, 13382 ;-- CL 1948, 565.591

## CONFIRMATION OF CERTAIN DEEDS AND INSTRUMENTS

### Act 21 of 1861

AN ACT to confirm deeds and instruments intended for the conveyance of real estate in certain cases.

**History:** 1861, Act 21, Imd. Eff. Feb. 2, 1861

*The People of the State of Michigan enact:*

#### **565.601 Deed executed according to law of place of execution; validity.**

Sec. 1.

That all deeds of lands situated within this state, heretofore or hereafter made without this state, and executed according to the laws of the place where made, and acknowledged to be the free act of the grantor or grantors therein named, before any person authorized to take the acknowledgment of deeds by the laws of the place where executed, or of the laws of the territory or state of Michigan, in force at the date of such acknowledgment, shall be deemed between the parties thereto, and all persons claiming under or through them, as valid and effectual to convey the legal estate of the premises therein described, as if the said deed had been in all respects legally executed.

**History:** 1861, Act 21, Imd. Eff. Feb. 2, 1861 ;-- CL 1871, 4250 ;-- How. 5724 ;-- CL 1897, 9048 ;-- CL 1915, 11781 ;-- CL 1929, 13383 ;-- CL 1948, 565.601

#### **565.602 Married woman's joint deed with husband; validity.**

Sec. 2.

All deeds of lands situated in this state, heretofore or hereafter made by any married woman jointly with her husband by their attorney in fact, under a joint power of attorney, executed and acknowledged as required in the joint deed of a husband and wife, and recorded in the office of the register of deeds of the proper county, shall be taken and deemed as between the parties thereto, and all persons claiming under or through them as valid and effectual to convey the legal title of the premises therein described, as if the same had been executed and acknowledged by the husband and wife in person.

**History:** 1861, Act 21, Imd. Eff. Feb. 2, 1861 ;-- CL 1871, 4251 ;-- How. 5725 ;-- CL 1897, 9049 ;-- CL 1915, 11782 ;-- CL 1929, 13384 ;-- CL 1948, 565.602

#### **565.603 Certificate of acknowledgment; effect of imperfection.**

Sec. 3.

No deed of lands situate in this state heretofore or hereafter executed, shall be deemed defective by reason of any informality or imperfection in the certificate of acknowledgment, if it shall sufficiently appear by such certificate that the person making the same was legally authorized to take such acknowledgment, and that the grantor or grantors named in such deed were personally known to him, and that he or they personally appeared before him and acknowledged such deed to be his or their free act, and if such deed was executed out of this state, it shall be sufficient if the certificate under the seal of office of the clerk or other proper certifying officer of the court of record of the county or district within which such acknowledgment was taken, in cases where any such certificate was required, sufficiently shows that the person before whom such acknowledgment was taken, was at the date thereof such officer as he is therein represented to be. And whenever such deed has been recorded in the office of the register of deeds of the proper county, such record shall be effectual for all purposes of a legal record, and the record of such deed or a transcript thereof may be given in evidence as in other cases: Provided, That nothing in this section, or in the preceding 2 sections contained, shall impair the rights of any person under a purchase heretofore made in good faith, and on valuable consideration.

**History:** 1861, Act 21, Imd. Eff. Feb. 2, 1861 ;-- CL 1871, 4252 ;-- How. 5726 ;-- CL 1897, 9050 ;-- CL 1915, 11783 ;-- CL 1929, 13385 ;-- CL 1948, 565.603

#### **565.604 Land conveyances; statutory requirements defect; effect.**

Sec. 4.

No conveyance of land or instrument intended to operate as such conveyance, made in good faith and upon a valuable consideration, whether heretofore made or hereafter to be made, shall be wholly void by reason of any defect in any statutory requisite in the sealing, signing, attestation, acknowledgment, or certificate of acknowledgment thereof; nor shall any deed or conveyance, heretofore or hereafter to be made, designed and intended to operate as a conveyance to any religious, fraternal, scientific or benevolent society, or corporation, be wholly void by reason of any mistake in the name or description of the grantee, nor because of any failure of such society or corporation to comply with any statutory provisions concerning the organization of such society or corporation: Provided, Such society or corporation shall hereafter comply with the provisions of the statute touching the organization or incorporation of such societies; but the same, when not otherwise effectual to the purposes intended, may be allowed to operate as an agreement for a proper and lawful conveyance of the premises in question, and may be enforced specifically by suit in equity in any court of competent jurisdiction, subject to the rights of subsequent purchasers in good faith and for a valuable consideration; and when any such defective instrument has been or shall hereafter be recorded in the office of the register of deeds of the county in which such lands are situate, such record shall hereafter operate as legal notice of all the rights secured by such instrument.

**History:** 1861, Act 21, Imd. Eff. Feb. 2, 1861 ;-- CL 1871, 4253 ;-- Am. 1873, Act 174, Imd. Eff. Apr. 29, 1873 ;-- How. 5727 ;-- CL 1897, 9051 ;-- CL 1915, 11784 ;-- CL 1929, 13386 ;-- Am. 1933, Act 56, Imd. Eff. Apr. 14, 1933 ;-- CL 1948, 565.604

## CONFIRMATION OF RECORD OF LETTERS OF ATTORNEY OR OTHER INSTRUMENT

### Act 191 of 1871

AN ACT to confirm the record of letters of attorney in certain cases.

**History:** 1871, Act 191, Eff. July 18, 1871

*The People of the State of Michigan enact:*

**565.631 Power of attorney; record as evidence of execution and acknowledgment.**

Sec. 1.

That any letter of attorney or other instrument containing a power to convey lands, as agent or attorney for the owners of such lands, executed and acknowledged in the manner provided by the statutes of this state for the execution and acknowledgment of deeds or other conveyances of land, and which shall have been actually recorded in the office of the register of deeds in any county in the state prior to the first day of March in the year 1847, may be proved in any court by the production of such record or a duly certified copy thereof and such record or a duly certified copy, shall be prima facie evidence of the due execution and acknowledgment of such letter of attorney or other instrument.

**History:** 1871, Act 191, Eff. July 18, 1871 ;-- CL 1871, 4256 ;-- Am. 1873, Act 183, Eff. July 31, 1873 ;-- How. 5691 ;-- Am. 1897, Act 103, Imd. Eff. Apr. 28, 1897 ;-- CL 1897, 8996 ;-- CL 1915, 11728 ;-- CL 1929, 13387 ;-- CL 1948, 565.631

**565.632 Destruction or loss of recorded instrument entitled to record in another county; transcript, recording, evidence.**

Sec. 2.

When deeds and instruments conveying title to real estate or any letter of attorney or other instrument containing a power to convey lands as agent or attorney for the owners of such lands, executed and acknowledged in the manner provided by the statutes of this state for the execution and acknowledgment of deeds or other conveyances of land, shall have been actually and regularly recorded in the office of the register of deeds of any of the counties of the state; and when such deeds, mortgages, instruments or other papers duly executed and designed for and entitled to record in more than 1 county of the state; and when such original papers have been consumed by fire or otherwise destroyed or lost before such other records have been completed; on satisfactory proof of such loss or destruction being made to the circuit judge of the district wherein such papers have been recorded, he may make an order authorizing the register of deeds to furnish certified transcript copies of such deeds, mortgages, papers, with the circuit judge's order attached thereto, shall be presented to the register of deeds for any county of this state, it shall be the duty of such register to record the same; and when so recorded, such copy, and the record thereof, shall be as valid and entitled to the same credit in all matters of notice and proof of title as where the originals have been so entered on record; and a certified copy thereof, and such record or a duly certified copy shall be prima facie evidence of the due execution and acknowledgment of such letter of attorney or other instrument.

**History:** Add. 1873, Act 183, Eff. July 31, 1873 ;-- How. 5716 ;-- Am. 1897, Act 103, Imd. Eff. Apr. 28, 1897 ;-- CL 1897, 8997 ;-- CL 1915, 11729 ;-- CL 1929, 13388 ;-- CL 1948, 565.632

**CONFIRMATION OF PUBLIC ACTS, RECORDS, SUITS, TAXES, AND OFFICIAL ACTS**

**Act 72 of 1875**

565.651, 565.652 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

**UNIFORM VENDOR AND PURCHASER RISK ACT**

**Act 53 of 1941**

AN ACT concerning the risk of loss after a contract to sell realty, and to make uniform the law with reference thereto, and to repeal all acts or parts of acts inconsistent therewith.

**History:** 1941, Act 53, Eff. Jan. 10, 1942

*The People of the State of Michigan enact:*

**565.701 Uniform vendor and purchaser risk act; provisions governing same deemed part of contract.**

Sec. 1.

Any contract hereafter made in this state for the purchase and sale of realty shall be interpreted as including an agreement that the parties shall have the following rights and duties, unless the contract expressly provides otherwise:

- (a) If, when neither the legal title nor the possession of the subject matter of the contract has been transferred, all or a material part thereof is destroyed without fault of the purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he has paid;
- (b) If, when either the legal title or the possession of the subject matter of the contract has been transferred, all or any part thereof is destroyed without fault of the vendor or is taken by eminent domain, the purchaser is not thereby relieved from a duty to pay the price, nor is he entitled to recover any portion thereof that he has paid.

**History:** 1941, Act 53, Eff. Jan. 10, 1942 ;-- CL 1948, 565.701

**565.702 Construction of act; uniformity.**

Sec. 2.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**History:** 1941, Act 53, Eff. Jan. 10, 1942 ;-- CL 1948, 565.702

**565.703 Uniform vendor and purchaser risk act; short title.**

Rendered Sunday, August 24, 2025

Sec. 3.

This may be cited as the uniform vendor and purchaser risk act.

**History:** 1941, Act 53, Eff. Jan. 10, 1942 ;— CL 1948, 565.703

## LAND SALES ACT

### Act 286 of 1972

565.801-565.835 Repealed. 1973, Act 184, Imd. Eff. Jan. 3, 1974;—2010, Act 49, Imd. Eff. Apr. 22, 2010.

## UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT

### Act 123 of 2010

AN ACT to create the uniform real property electronic recording act; and to create an electronic recording commission and provide for its powers and duties.

**History:** 2010, Act 123, Imd. Eff. July 19, 2010

*The People of the State of Michigan enact:*

#### **565.841 Short title.**

Sec. 1.

This act shall be known and may be cited as the "uniform real property electronic recording act".

**History:** 2010, Act 123, Imd. Eff. July 19, 2010

#### **565.842 Definitions.**

Sec. 2.

As used in this act:

- (a) "Commission" means the electronic recording commission created in section 5.
- (b) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, and that is eligible to be recorded in the land records maintained by the county register of deeds.
- (c) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (d) "Electronic document" means a document that is received by the county register of deeds in an electronic form.
- (e) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.
- (f) "Paper document" means a document that is received by the county register of deeds in a form that is not electronic.
- (g) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

**History:** 2010, Act 123, Imd. Eff. July 19, 2010

#### **565.843 Electronic document or signature; satisfaction of recording requirement; acceptance by register of deeds not required.**

Sec. 3.

- (1) If a law requires as a condition for recording that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document.
- (2) If a law requires as a condition for recording that a document be signed, the requirement is satisfied by an electronic signature.
- (3) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to perform that act, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature.
- (4) Except as provided in section 5a, this section does not require that a register of deeds accept electronic documents for recording.

**History:** 2010, Act 123, Imd. Eff. July 19, 2010 ;— Am. 2020, Act 248, Imd. Eff. Nov. 5, 2020

#### **565.844 Establishment of standards by electronic recording commission; powers of county register of deeds; acceptance of paper documents; placement of entries in index; verified transactional relationship; electronic documents recorded before establishment of standards.**

Sec. 4.

- (1) Except as provided in section 5a, a county register of deeds who implements any of the functions listed in subsection (2) shall do so in compliance with any standards established by the electronic recording commission.
- (2) A county register of deeds may do any of the following:
  - (a) Receive, index, store, archive, and transmit electronic documents.
  - (b) Provide for access to, and for search and retrieval of, documents and information by electronic means.
  - (c) Convert paper documents accepted for recording into electronic form.
  - (d) Convert into electronic form information recorded before the county register of deeds began to record electronic documents.

- (e) Accept electronically any fee or tax that the county register of deeds is authorized to collect.
- (f) Agree with other officials of a state or a political subdivision of a state, or of the United States, on procedures or processes to facilitate the electronic satisfaction of prior approvals and conditions precedent to recording and the electronic payment of fees or taxes.
- (3) A county register of deeds who accepts electronic documents for recording shall continue to accept paper documents for recording as authorized by state law. The county register of deeds shall place entries for both types of documents in the same index.
- (4) Except as provided in section 5a, a county register of deeds shall only accept electronic documents for recording from a person with which the county register of deeds has entered into an agreement establishing a verified transactional relationship.
- (5) This act does not invalidate electronic documents recorded under this act, the uniform electronic transactions act, 2000 PA 305, MCL 450.831 to 450.849, or the federal electronic signatures in global and national commerce act, 15 USC 7001 to 7031, before the establishment of standards under this act by the electronic recording commission.

**History:** 2010, Act 123, Imd. Eff. July 19, 2010 ;-- Am. 2018, Act 364, Eff. Mar. 12, 2019 ;-- Am. 2020, Act 248, Imd. Eff. Nov. 5, 2020

**565.845 Electronic recording commission; creation; membership; terms; vacancy; removal; meetings; quorum; business conducted at public meeting; writing subject to freedom of information act; compensation; establishment of standards.**

**Sec. 5.**

- (1) The electronic recording commission is created within the department of technology, management, and budget. The commission consists of 8 members, as follows:
  - (a) The director of the department of technology, management, and budget or his or her designee, who is a nonvoting member.
  - (b) Seven members appointed by the governor, as follows:
    - (i) Four individuals who are county registers of deeds.
    - (ii) One individual who is engaged in the land title profession.
    - (iii) One individual who is engaged in the business of banking.
    - (iv) One individual who is an attorney licensed to practice law in this state and whose practice emphasizes real property matters.
  - (2) The appointed members of the commission shall serve for terms of 2 years or until a successor is appointed, whichever is later, except that of the members first appointed 3 shall serve for 1 year, 2 shall serve for 2 years, and 2 shall serve for 3 years.
  - (3) If a vacancy occurs on the commission, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.
  - (4) The governor may remove an appointed member of the commission for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.
  - (5) The first meeting of the commission shall be called by the director of the department of technology, management, and budget. At the first meeting, the commission shall elect from among its members a chairperson and other officers as it considers necessary or appropriate. After the first meeting, the commission shall meet at least annually, or more frequently at the call of the chairperson or if requested by 5 or more members.
  - (6) A majority of the members of the commission constitute a quorum for the transaction of business at a meeting of the commission. A majority of the members present and serving are required for official action of the commission.
  - (7) The business that the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
  - (8) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
  - (9) Members of the commission shall serve without compensation. However, members of the commission may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the commission.
  - (10) The commission shall adopt standards to implement this act and standards that address the acceptance and use of electronic notarization of documents submitted to a county register of deeds for recording. To keep the standards and practices of county registers of deeds in this state in harmony with the standards and practices of offices of county registers of deeds in other jurisdictions that enact substantially this act, and to keep the technology used by county registers of deeds in this state compatible with technology used by offices of county registers of deeds in other jurisdictions that enact substantially this act, the commission, so far as is consistent with the purposes, policies, and provisions of this act, in adopting, amending, and repealing standards, shall consider all of the following:
    - (a) Standards and practices of other jurisdictions.
    - (b) The most recent standards promulgated by national standard-setting bodies, such as the Property Records Industry Association.
    - (c) The views of interested persons and governmental officials and entities.
    - (d) The needs of counties of varying size, population, and resources.
    - (e) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering.

**History:** 2010, Act 123, Imd. Eff. July 19, 2010 ;-- Am. 2014, Act 569, Imd. Eff. Jan. 15, 2015 ;-- Am. 2018, Act 364, Eff. Mar. 12, 2019

**565.845a Acceptance of electronic documents for recording; applicability of section.**

**Sec. 5a.**

- (1) During the time that this section applies, a register of deeds shall accept electronic documents for recording. If a register of deeds does not have the equipment to accept an electronic document, the register of deeds shall accept for recording a tangible copy of an electronic document properly notarized under the Michigan law on notarial acts, 2003 PA 238, MCL 55.261 to 55.315.
- (2) During the time that this section applies, a register of deeds need only act in substantial compliance with this act and any standards established by the electronic recording commission.
- (3) During the time that this section applies, a register of deeds shall deem all financial institutions and all title insurance companies or their employed or contracted settlement agents as covered by an agreement establishing a verified transactional relationship for purposes of section 4(4). The register of deeds may ask the financial institution or title insurance company for verification of a notary's employment or contractual association.
- (4) A financial institution shall accept a document or electronic document recorded by a register of deeds under this section.
- (5) This section applies after April 29, 2020 and before July 1, 2021.

**History:** Add. 2020, Act 248, Imd. Eff. Nov. 5, 2020 ;-- Am. 2020, Act 337, Imd. Eff. Dec. 29, 2020

**565.846 Application and construction of act.**

**Sec. 6.**

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**History:** 2010, Act 123, Imd. Eff. July 19, 2010

**565.847 Federal electronic signatures; limitation of act.**

Sec. 7.

This act modifies, limits, and supersedes the federal electronic signatures in global and national commerce act, 15 USC 7001, et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 USC 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 USC 7003(b).

**History:** 2010, Act 123, Imd. Eff. July 19, 2010

**DISCHARGE OF PROHIBITED RESTRICTIVE COVENANTS ACT**

**Act 234 of 2022**

AN ACT to prohibit the recording of deeds or other instruments relating to real property that contain certain restrictive covenants or conditions; to make such restrictions unenforceable; and to provide remedies with respect to those instruments.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

*The People of the State of Michigan enact:*

**565.861 Short title.**

Sec. 1.

This act may be cited as the "discharge of prohibited restrictive covenants act".

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.862 Definitions.**

Sec. 2.

As used in this act:

(a) "Discharge form" means the discharge of a prohibited restriction form described in section 5.

(b) "Person" means an individual or a partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

(c) "Prohibited restriction" means a restriction, covenant, or condition, including a right of entry or possibility of reverter, that purports to restrict occupancy or ownership of property on the basis of race, color, religion, sex, familial status, national origin, or other class protected by the fair housing act, title VIII of the civil rights act of 1968, Public Law 90-284, in a deed or other instrument.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.863 Recording a deed with prohibited restrictions; prohibition.**

Sec. 3.

A person shall not record in the records of the register of deeds a deed or other instrument that contains a prohibited restriction.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.864 Prohibited restrictions as void; unenforceable.**

Sec. 4.

(1) A prohibited restriction is void and has no legal effect.

(2) A court or other person shall not enforce a prohibited restriction.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.865 Discharge of prohibited restrictions; form.**

Sec. 5.

A discharge of prohibited restriction form may be recorded with the register of deeds for the county where the property is located. A discharge form recorded under this section must substantially conform to the following form:

"DISCHARGE OF PROHIBITED RESTRICTION

The document recorded at Liber \_\_\_\_ Page \_\_\_\_ or Instrument number \_\_\_\_ contains language that violates the discharge of prohibited restrictive covenants act.



This document removes and abolishes from the original document any restriction, covenant, or condition, including a right of entry or possibility of reverter, that purports to restrict occupancy or ownership of property on the basis of race, color, religion, sex, familial status, national origin, or other class protected by the fair housing act, title VIII of the civil rights act of 1968, Public Law 90-284, and the discharge of prohibited restrictive covenants act.

☐ If this box is checked, a transcription or copy of the original document with language redacted or removed must be attached to this form.

The undersigned is/are the legal owner(s) of the property described in the document referenced above or an officer of the homeowners' or property owners' association, or the association of co-owners of the condominium, for the property described in the document referenced above.

Property description: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name)

STATE OF MICHIGAN

\_\_\_\_\_ COUNTY

Acknowledged before me in \_\_\_\_\_ County, Michigan, (or) before me using an electronic notarization system under MCL 55.286a in \_\_\_\_\_ County, Michigan, (or) before me using a remote electronic notarization platform under MCL 55.286b on (date), by (name of person acknowledged).

\_\_\_\_\_  
(Notary's signature)

\_\_\_\_\_  
(Notary public's name, typed, as it appears on application for commission)

Notary public, State of Michigan, County of \_\_\_\_\_.

My commission expires \_\_\_\_\_.

(Or, if acting in county other than county of commission) Acting in the County of \_\_\_\_\_.

Prepared by: \_\_\_\_\_ (Name and address of preparer).".

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.866 Homeowners' or property owners' association; authority to discharge a prohibited restriction; requirements; execution; recording with register of deeds.**

Sec. 6.

(1) A homeowners' or property owners' association, acting through a simple majority vote of its board, may record a discharge form to remove any prohibited restriction in a deed or other instrument that affects a property governed by the homeowners' or property owners' association.

(2) If the board of a homeowners' or property owners' association receives a written request by a member of the association that the board exercise its authority under subsection (1), the board shall determine within a reasonable time whether a prohibited restriction is present in a deed or other instrument. If the board determines that a prohibited restriction is present in a deed or other instrument, the board shall record a discharge form, as provided under this subsection and subsections (1), (3), (4), and (9).

(3) Board action under subsection (1) or (2) does not require the vote or approval of the property owners.

(4) A discharge form prepared under subsection (1) or (2) may be executed by any officer authorized by the board.

(5) The board of directors of an association of co-owners of a condominium, acting through a simple majority vote of the board, may record a discharge form to remove any prohibited restriction in a deed or other instrument that affects a property governed by the board.

(6) If the board of directors of an association of co-owners of a condominium receives a written request by a co-owner that the board exercise its authority under subsection (5), the board shall determine within a reasonable time whether a prohibited restriction is present in a deed or other instrument. If the board determines that a prohibited restriction is present in a deed or other instrument, the board shall record a discharge form, as provided under this subsection and subsections (5), (7), (8), and (9).

(7) Notwithstanding sections 90 and 90a of the condominium act, 1978 PA 59, MCL 559.190 and 559.190a, board action under subsection (5) or (6) does not require the vote or approval of the condominium co-owners or mortgagees.

(8) A discharge form prepared under subsection (5) or (6) may be executed by any officer authorized by the board.

(9) A discharge form prepared under this section must be recorded with the register of deeds for the county where the property is located.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.867 Property owner; authority to discharge a prohibited restriction.**

Sec. 7.

(1) A property owner may record in the records of the register of deeds for the county where the property is located a discharge form to remove any prohibited restriction.

(2) A discharge form recorded under this section may be executed solely by the property owner.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.868 Standing to file action for discharge of prohibited restriction.**

Sec. 8.

(1) If a recorded deed or other recorded instrument contains a provision that is prohibited under this act, the owner, occupant, or tenant of the property that is subject to the provision or any member of the board of a homeowners' or property owners' association or of the board of directors of an association of co-owners of a condominium that would have a right to enforce the provision may bring an action in the circuit court in the county in which the property is located to have a discharge form recorded with the register of deeds.

(2) An action under this section must be brought as an in rem, declaratory judgment action and the title of the action must be the description of the property. The owners, occupants, and tenants of the property or any part of the property are necessary parties to the action.

(3) In an action under this section, if the court finds that any provisions of the deed or instrument are prohibited under this act, it shall enter an order requiring a discharge form to be recorded with the register of deeds in accordance with this act.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.869 Recording of discharge form; fees.**

Sec. 9.

As provided in section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567, a register of deeds is entitled to the fees under that section for recording a discharge form prepared and recorded under this act.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.870 Refusal to remove prohibited restrictions; liability; costs and attorney fees.**

Sec. 10.

(1) A person that refuses, before recording, to remove from a deed or other instrument a prohibited restriction is liable for all actual court costs and reasonable attorney fees incurred in an action before a court of competent jurisdiction to enforce the provisions of this act.

(2) Subsection (1) does not apply to a register of deeds or an employee of a register of deeds.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.871 Duties not created by act; liability.**

Sec. 11.

(1) Except as otherwise provided in section 6(2) and (6), this act does not create a duty on the part of an owner, occupant, tenant, association, board, or member or officer of a board to do any of the following as authorized under this act:

(a) Record a discharge form.

(b) Bring an action under this act.

(2) An owner, occupant, tenant, association, board, or member or officer of a board is not liable for failing to do any of the following as authorized under this act:

(a) Record a discharge form.

(b) Bring an action in court under this act.

(3) This act does not limit any right or remedy under the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to 37.2804, or any other law of this state.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**565.872 Effect of act.**

Sec. 12.

This act does not do either of the following:

(a) Impose a duty on a register of deeds or employee of a register of deeds to inspect a deed or other instrument to determine whether recording the deed or instrument would violate this act.

(b) Create a duty, a responsibility, a requirement, or an obligation on the part of a title insurance company or title insurance agency, or the officers, directors, shareholders, employees, or contractors of a title insurance company or title insurance agency, to inspect a deed or other instrument to determine whether recording the deed or instrument would violate this act. A title insurance company or title insurance agency, or the officers, directors, shareholders, employees, or contractors of the title insurance company or title insurance agency, are expressly excluded from any liability or cause of action that may be brought by any person under this act.

**History:** 2022, Act 234, Imd. Eff. Dec. 13, 2022

**TRANSFER FEE COVENANTS ATTACHING TO NONRESIDENTIAL REAL PROPERTY**

**Act 34 of 2011**

AN ACT to prohibit certain covenants attaching to nonresidential real property; to prohibit the imposition of certain fees upon transfer of that real property; and to provide for remedies.

**History:** 2011, Act 34, Imd. Eff. May 24, 2011

*The People of the State of Michigan enact:*

**565.881 Definitions.**

Sec. 1.

As used in this act:

(a) "Transfer fee" means a fee or charge payable upon the subsequent sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in nonresidential real property located in this state, or payable for the right to make or accept such a transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. Transfer fee does not include any of the following:

(i) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development, or sale of the property, provided such additional consideration is payable on a 1-time basis only and the obligation to make such payment does not bind successors in title to the property. For the purposes of this subdivision, an interest in real property may include a separate mineral estate and its appurtenant surface access rights.

(ii) Any commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the grantor or the grantee, including any

subsequent additional commission for that transfer payable by the grantor or the grantee based upon any subsequent appreciation, development, or sale of the property.

(iii) Any interest, charges, fees, or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property, including, but not limited to, any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the mortgage, any fees or charges payable to the lender for estoppel letters or certificates, and any shared appreciation interest or profit participation or other consideration payable to the lender in connection with the loan.

(iv) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease, including, but not limited to, any fee payable to the lessor for consenting to an assignment, subletting, encumbrance, or transfer of the lease.

(v) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the property to another person.

(vi) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental authority.

(vii) Any fee, charge, assessment, fine, or other amount payable to a homeowners', condominium, cooperative, mobile home, or property owners' association pursuant to a declaration or covenant or law applicable to such association, including, but not limited to, fees or charges payable for estoppel letters or certificates issued by the association or its authorized agent.

(viii) Any fee, charge, assessment, dues, contribution, or other amount imposed by a declaration or covenant encumbering a community, and payable to a nonprofit or charitable organization for the purpose of supporting cultural, educational, charitable, recreational, environmental, conservation, or other similar activities benefiting the community that is subject to the declaration or covenant.

(ix) Any fee, charge, assessment, dues, contribution, or other amount pertaining to the purchase or transfer of a club membership relating to real property owned by the member, including, but not limited to, any amount determined by reference to the value, purchase price, or other consideration given for the transfer of the real property.

(b) "Transfer fee covenant" means a declaration or covenant that requires or purports to require the payment of a transfer fee to the declarant or other person specified in the declaration or covenant or to that person's successors or assigns.

**History:** 2011, Act 34, Imd. Eff. May 24, 2011

#### **565.882 Transfer fee covenant; effect.**

Sec. 2.

A transfer fee covenant that is executed on or after the effective date of this section, whether or not recorded, does not run with the title to real property and is not binding on or enforceable against any subsequent owner, purchaser, or mortgagee of any interest in the real property as an equitable servitude or otherwise.

**History:** 2011, Act 34, Imd. Eff. May 24, 2011

#### **565.883 Lien as void.**

Sec. 3.

Any lien purporting to secure the payment of a transfer fee under a transfer fee covenant that is executed on or after the effective date of this section is void.

**History:** 2011, Act 34, Imd. Eff. May 24, 2011

#### **565.884 Action to clear title; other equitable relief; attorney fees and costs.**

Sec. 4.

(1) Any person aggrieved by the imposition of a transfer fee, whether the original or subsequent transferee or purchaser, may bring an action to clear the title and void the transfer fee and for other equitable relief.

(2) In a successful action brought under subsection (1), the court may award actual reasonable attorney fees and other costs of bringing the action.

**History:** 2011, Act 34, Imd. Eff. May 24, 2011

### **TRANSFER FEE COVENANTS ATTACHING TO RESIDENTIAL REAL PROPERTY**

#### **Act 35 of 2011**

AN ACT to prohibit certain covenants attaching to residential real property; to prohibit the imposition of certain fees upon transfer of that real property; and to provide for remedies.

**History:** 2011, Act 35, Imd. Eff. May 24, 2011

*The People of the State of Michigan enact:*

#### **565.891 Definitions.**

Sec. 1.

As used in this act:

(a) "Transfer fee" means a fee or charge payable upon the subsequent sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in residential real property located in this state, or payable for the right to make or accept such a transfer, regardless of whether the fee or charge is a fixed amount or is determined as a percentage of the value of the property, the purchase price, or other consideration given for the transfer. Transfer fee does not include any of the following:

(i) Any consideration payable by the grantee to the grantor for the interest in real property being transferred, including any subsequent additional consideration for the property payable by the grantee based upon any subsequent appreciation, development, or sale of the property, provided such additional consideration is payable on a 1-time basis only and the obligation to make such payment does not bind successors in title to the property. For the purposes of this subdivision, an interest in real property may include a separate mineral estate and its appurtenant surface access rights.

(ii) Any commission payable to a licensed real estate broker for the transfer of real property pursuant to an agreement between the broker and the grantor or the grantee, including any subsequent additional commission for that transfer payable by the grantor or the grantee based upon any subsequent appreciation, development, or sale of the property.

(iii) Any interest, charges, fees, or other amounts payable by a borrower to a lender pursuant to a loan secured by a mortgage against real property, including, but not limited to, any fee payable to the lender for consenting to an assumption of the loan or a transfer of the real property subject to the mortgage, any fees or charges payable to the lender for estoppel letters or certificates, and any shared appreciation interest or profit participation or other consideration payable to the lender in connection with the loan.

(iv) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease, including, but not limited to, any fee payable to the lessor for consenting to an assignment, subletting, encumbrance, or transfer of the lease.

(v) Any consideration payable to the holder of an option to purchase an interest in real property or the holder of a right of first refusal or first offer to purchase an interest in real property for waiving, releasing, or not exercising the option or right upon the transfer of the property to another person.

- (vi) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental authority.
- (vii) Any fee, charge, assessment, fine, or other amount payable to a homeowners', condominium, cooperative, mobile home, or property owners' association pursuant to a declaration or covenant or law applicable to such association, including, but not limited to, fees or charges payable for estoppel letters or certificates issued by the association or its authorized agent.
- (viii) Any fee, charge, assessment, dues, contribution, or other amount imposed by a declaration or covenant encumbering a community, and payable to a nonprofit or charitable organization for the purpose of supporting cultural, educational, charitable, recreational, environmental, conservation, or other similar activities benefiting the community that is subject to the declaration or covenant.
- (ix) Any fee, charge, assessment, dues, contribution, or other amount pertaining to the purchase or transfer of a club membership relating to real property owned by the member, including, but not limited to, any amount determined by reference to the value, purchase price, or other consideration given for the transfer of the real property.
- (b) "Transfer fee covenant" means a declaration or covenant that requires or purports to require the payment of a transfer fee to the declarant or other person specified in the declaration or covenant or to that person's successors or assigns.

**History:** 2011, Act 35, Imd. Eff. May 24, 2011

#### **565.892 Transfer fee covenant; effect.**

Sec. 2.

A transfer fee covenant that is executed on or after the effective date of this section, whether or not recorded, does not run with the title to real property and is not binding on or enforceable against any subsequent owner, purchaser, or mortgagee of any interest in the real property as an equitable servitude or otherwise.

**History:** 2011, Act 35, Imd. Eff. May 24, 2011

#### **565.893 Lien as void.**

Sec. 3.

Any lien purporting to secure the payment of a transfer fee under a transfer fee covenant that is executed on or after the effective date of this section is void.

**History:** 2011, Act 35, Imd. Eff. May 24, 2011

#### **565.894 Action to clear title; other equitable relief; attorney fees and costs.**

Sec. 4.

(1) Any person aggrieved by the imposition of a transfer fee, whether the original or subsequent transferee or purchaser, may bring an action to clear the title and void the transfer fee and for other equitable relief.

(2) In a successful action brought under subsection (1), the court may award actual reasonable attorney fees and other costs of bringing the action.

**History:** 2011, Act 35, Imd. Eff. May 24, 2011

### **PRIORITY OF MORTGAGES**

#### **Act 348 of 1990**

AN ACT to establish the priority of a mortgage that secures an indebtedness or other obligation that arises or is incurred after the mortgage has been recorded.

**History:** 1990, Act 348, Eff. Apr. 1, 1991

*The People of the State of Michigan enact:*

#### **565.901 Definitions.**

Sec. 1.

As used in this act:

- (a) "Future advance" means an indebtedness or other obligation that is secured by a mortgage and arises or is incurred after the mortgage has been recorded, whether or not the future advance was obligatory or optional on the part of the mortgagee.
- (b) "Future advance mortgage" means a mortgage that secures a future advance and is recorded either prior to or after the effective date of this act. If a recorded mortgage is amended to secure, expressly and not by implication, a future advance arising after the amendment, the mortgage becomes a future advance mortgage at the time the amendment is recorded.
- (c) "Protective advance" means a future advance that arises because the mortgagee makes an expenditure or expenditures for 1 or more of the following:
  - (i) To fulfill or perform an obligation of the mortgagor under the mortgage, with respect to the mortgaged property, that the mortgagor has failed to fulfill or perform.
  - (ii) To preserve the priority of the mortgage or the value of the mortgaged property.
  - (iii) For attorneys fees or other expenses that are incurred in exercising a right or remedy under the mortgage or that the mortgagor has agreed in the mortgage to reimburse to the mortgagee.
- (d) "Residential future advance mortgage" means a future advance mortgage upon 1 or more of the following:
  - (i) A single structure designed principally for the occupancy of from 1 to 4 families.
  - (ii) A single manufactured home designed principally for the occupancy of from 1 to 4 families.
  - (iii) A single condominium unit or cooperative unit, designed principally for the occupancy of from 1 to 4 families.
  - (iv) Land upon which the mortgagor intends to construct a single structure designed principally for the occupancy of from 1 to 4 families, if the structure is to be constructed using proceeds of a loan secured by the mortgage, unless the mortgagor intends to resell the structure without occupying it as a dwelling.
  - (v) Land upon which the mortgagor intends to place a single manufactured home, if it will be purchased using proceeds of a loan secured by the mortgage, unless the mortgagor intends to resell the manufactured home without occupying it as a dwelling.
- (e) Notwithstanding subdivision (d), a mortgage is not a "residential future advance mortgage" if the land subject to the mortgage is more than 25 acres in size.

**History:** 1990, Act 348, Eff. Apr. 1, 1991 ;-- Am. 1992, Act 35, Eff. July 1, 1992

**565.902 Priority of future advance mortgage.**

Sec. 2.

Except as otherwise provided by this act, a future advance mortgage securing a future advance shall have priority with respect to the future advance as if the future advance was made at the time the future advance mortgage was recorded.

**History:** 1990, Act 348, Eff. Apr. 1, 1991 ;-- Am. 1992, Act 35, Eff. July 1, 1992

**565.903 Priority of recorded mortgage amended to become future advance mortgage.**

Sec. 3.

Except as otherwise provided by this act, if a recorded mortgage has been or is amended to become a future advance mortgage, it shall have priority with respect to a future advance secured by the mortgage as if the future advance was made at the time the amendment was recorded.

**History:** 1990, Act 348, Eff. Apr. 1, 1991 ;-- Am. 1992, Act 35, Eff. July 1, 1992

**565.903a Priority of residential future advance mortgage.**

Sec. 3a.

(1) Sections 2 and 3 do not apply to a residential future advance mortgage, except to the extent the mortgage secures a protective advance unless there are set forth in a conspicuous manner on the first page of the mortgage or on the first page of an amendment to the mortgage both of the following statements:

(a) "This is a future advance mortgage".

(b) A statement of the maximum principal amount, excluding protective advances, that may be secured by the mortgage.

(2) For purposes of subsection (1), a printed heading in capitals is conspicuous, and language in the body of a mortgage or amendment to a mortgage is conspicuous if it is in larger or other contrasting type.

(3) Except as provided in subsection (4), if a residential future advance mortgage is amended to contain the statements required in subsection (1), then the mortgage has priority with respect to a future advance secured by the mortgage as if the future advance were made at the time the amendment was recorded.

(4) Notwithstanding subsections (1) and (3), if a residential future advance mortgage was recorded before the effective date of the amendatory act that added this section, and if another mortgage, lien, or other interest in the property was recorded after the residential future advance mortgage was recorded, after March 31, 1991, and before the effective date of the amendatory act that added this section, then the residential future advance mortgage has priority, in accordance with sections 2 and 3, with respect to a future advance secured by the mortgage, over the other mortgage, lien, or other interest, even though the residential future advance mortgage does not contain the statements described in subsection (1). If a mortgage is amended to become a residential future advance mortgage, then for purposes of this subsection the mortgage is considered to have been recorded at the time the amendment was recorded.

(5) If sections 2 and 3 do not apply to a residential future advance mortgage with respect to a future advance secured by the mortgage, then the priority of the mortgage with respect to the advance shall be determined by the law that would have applied in the absence of this act, except as provided in subsection (4).

**History:** Add. 1992, Act 35, Eff. July 1, 1992

**565.904 Priority of future advance mortgage over another interest in property recorded prior to April 1, 1991.**

Sec. 4.

This act does not give a future advance mortgage priority over another mortgage, lien, or other interest in the property that was recorded prior to April 1, 1991 if the other mortgage, lien, or other interest in the property would have had priority in the absence of this act.

**History:** 1990, Act 348, Eff. Apr. 1, 1991 ;-- Am. 1992, Act 35, Eff. July 1, 1992

**565.905 Applicability of act.**

Sec. 5.

This act does not apply to the extent that priority is governed by section 119 of the construction lien act, Act No. 497 of the Public Acts of 1980, being section 570.1119 of the Michigan Compiled Laws, or by section 29 of Act No. 122 of the Public Acts of 1941, being section 205.29 of the Michigan Compiled Laws.

**History:** 1990, Act 348, Eff. Apr. 1, 1991

**565.906 Effective date.**

Sec. 6.

This act shall take effect April 1, 1991.

**History:** 1990, Act 348, Eff. Apr. 1, 1991

**SELLER DISCLOSURE ACT**

**Act 92 of 1993**

AN ACT to require certain disclosures in connection with transfers of residential property.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.951 Short title.**

Sec. 1.

This act shall be known and may be cited as the "seller disclosure act".

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.952 Applicability of seller disclosure requirements.**

Sec. 2.

The seller disclosure requirements of sections 4 to 13 apply to the transfer of any interest in real estate consisting of not less than 1 or more than 4 residential dwelling units, whether by sale, exchange, installment land contract, lease with an option to purchase, any other option to purchase, or ground lease coupled with proposed improvements by the purchaser or tenant, or a transfer of stock or an interest in a residential cooperative.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.953 Seller disclosure requirements; exceptions.**

Sec. 3.

The seller disclosure requirements of sections 4 to 13 do not apply to any of the following:

- (a) Transfers pursuant to court order, including, but not limited to, transfers ordered by a probate court in administration of an estate, transfers pursuant to a writ of execution, transfers by any foreclosure sale, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance.
- (b) Transfers to a mortgagee by a mortgagor or successor in interest who is in default, or transfers to a beneficiary of a deed of trust by a trustor or successor in interest who is in default.
- (c) Transfers by a sale under a power of sale or any foreclosure sale under a decree of foreclosure after default in an obligation secured by a mortgage or deed of trust or secured by any other instrument containing a power of sale, or transfers by a mortgagee or a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a power of sale under a mortgage or deed of trust or a sale pursuant to a decree of foreclosure or has acquired the real property by a deed in lieu of foreclosure.
- (d) Transfers by a nonoccupant fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.
- (e) Transfers from 1 co-tenant to 1 or more other co-tenants.
- (f) Transfers made to a spouse, parent, grandparent, child, or grandchild.
- (g) Transfers between spouses resulting from a judgment of divorce or a judgment of separate maintenance or from a property settlement agreement incidental to such a judgment.
- (h) Transfers or exchanges to or from any governmental entity.
- (i) Transfers made by a person licensed under article 24 of Act No. 299 of the Public Acts of 1980, being sections 339.2401 to 339.2412 of the Michigan Compiled Laws, of newly constructed residential property that has not been inhabited.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.954 Written statement; delivery; time limits; compliance; terminating purchase agreement within certain time limits; expiration of right to terminate.**

Sec. 4.

(1) The transferor of any real property described in section 2 shall deliver to the transferor's agent or to the prospective transferee or the transferee's agent the written statement required by this act. If the written statement is delivered to the transferor's agent, the transferor's agent shall provide a copy to the prospective transferee or his or her agent. A written disclosure statement provided to a transferee's agent shall be considered to have been provided to the transferee. The written statement shall be delivered to the prospective transferee within the following time limits:

- (a) In the case of a sale, before the transferor executes a binding purchase agreement with the prospective transferee.
- (b) In the case of transfer by an installment sales contract where a binding purchase agreement has not been executed, or in the case of a lease together with an option to purchase or a ground lease coupled with improvements by the tenant, before the transferor executes the installment sales contract with the prospective transferee.
- (2) With respect to any transfer subject to subsection (1), the transferor shall indicate compliance with this act either on the purchase agreement, the installment sales contract, the lease, or any addendum attached to the purchase agreement, contract, or lease, or on a separate document.
- (3) Except as provided in subsection (4), if any disclosure or amendment of any disclosure required to be made by this act is delivered after the transferor executes a binding purchase agreement, the prospective transferee may terminate the purchase agreement by delivering written notice of termination to the transferor or the transferor's agent within the following time limits:
  - (a) Not later than 72 hours after delivery of the disclosure statement to the prospective transferee, if the disclosure statement was delivered to the prospective transferee in person.
  - (b) Not later than 120 hours after delivery of the disclosure statement to the prospective transferee, if the disclosure statement was delivered to the prospective transferee by registered mail.
- (4) A transferee's right to terminate the purchase agreement expires upon the transfer of the subject property by deed or installment sales contract.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.955 Liability for error, inaccuracy, or omission; delivery as compliance with requirements of act; conditions.**

Sec. 5.

(1) The transferor or his or her agent is not liable for any error, inaccuracy, or omission in any information delivered pursuant to this act if the error, inaccuracy, or omission was not within the personal knowledge of the transferor, or was based entirely on information provided by public agencies or provided by other persons specified in subsection (3), and ordinary care was exercised in transmitting the information. It is not a violation of this act if the transferor fails to disclose information that could be obtained only through inspection or observation of inaccessible portions of real estate or could be discovered only by a person with expertise in a science or trade beyond the knowledge of the transferor.

(2) The delivery of any information required by this act to be disclosed to a prospective transferee by a public agency or other person specified in subsection (3) shall be considered to comply with the requirements of this act and relieves the transferor of any further duty under this act with respect to that item of information, unless the transferor has knowledge of a known defect or condition that contradicts the information provided by the public agency or the person specified in subsection (3).

(3) The delivery of a report or opinion prepared by a licensed professional engineer, professional surveyor, geologist, structural pest control operator, contractor, or other expert, dealing with matters within the scope of the professional's license or expertise, is sufficient compliance for application of the exemption provided by subsection (1) if the information is provided upon the request of the prospective transferee, unless the transferor has knowledge of a known defect or condition that contradicts the information contained in the report or opinion. In responding to a request by a prospective transferee, an expert may indicate, in writing, an understanding that the information provided will be used in fulfilling the requirements of section 7 and, if so, shall indicate the required disclosures, or parts of disclosures, to which the information being furnished applies. In furnishing the statement, the expert is not

responsible for any items of information other than those expressly set forth in the statement.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.956 Disclosures; inaccuracy as result of action, occurrence, or agreement after delivery; unknown or unavailable information; basis.**

Sec. 6.

If information disclosed in accordance with this act becomes inaccurate as a result of any action, occurrence, or agreement after the delivery of the required disclosures, the resulting inaccuracy does not constitute a violation of this act. If at the time the disclosures are required to be made, an item of information required to be disclosed under this act is unknown or unavailable to the transferor, the transferor may comply with this act by advising a prospective purchaser of the fact that the information is unknown. The information provided to a prospective purchaser pursuant to this act shall be based upon the best information available and known to the transferor.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.957 Disclosure; form.**

Sec. 7.

(1) The disclosures required by this act shall be made on the following form:

**SELLER'S DISCLOSURE STATEMENT**

Property Address:

\_\_\_\_\_  
Street  
\_\_\_\_\_  
Michigan  
\_\_\_\_\_  
City, Village, or Township

Purpose of Statement: This statement is a disclosure of the condition of the property in compliance with the seller disclosure act. This statement is a disclosure of the condition and information concerning the property, known by the seller. Unless otherwise advised, the seller does not possess any expertise in construction, architecture, engineering, or any other specific area related to the construction or condition of the improvements on the property or the land. Also, unless otherwise advised, the seller has not conducted any inspection of generally inaccessible areas such as the foundation or roof. This statement is not a warranty of any kind by the seller or by any agent representing the seller in this transaction, and is not a substitute for any inspections or warranties the buyer may wish to obtain.

Seller's Disclosure: The seller discloses the following information with the knowledge that even though this is not a warranty, the seller specifically makes the following representations based on the seller's knowledge at the signing of this document. Upon receiving this statement from the seller, the seller's agent is required to provide a copy to the buyer or the agent of the buyer. The seller authorizes its agent(s) to provide a copy of this statement to any prospective buyer in connection with any actual or anticipated sale of property. The following are representations made solely by the seller and are not the representations of the seller's agent(s), if any. THIS INFORMATION IS A DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY CONTRACT BETWEEN BUYER AND SELLER.

Instructions to the Seller: (1) Answer ALL questions. (2) Report known conditions affecting the property. (3) Attach additional pages with your signature if additional space is required. (4) Complete this form yourself. (5) If some items do not apply to your property, check NOT AVAILABLE. If you do not know the facts, check UNKNOWN. FAILURE TO PROVIDE A PURCHASER WITH A SIGNED DISCLOSURE STATEMENT WILL ENABLE A PURCHASER TO TERMINATE AN OTHERWISE BINDING PURCHASE AGREEMENT.

Appliances/Systems/Services: The items below are in working order (the items below are included in the sale of the property only if the purchase agreement so provides):

	Yes	No	Ur
Range/Oven	_____	_____	_____
Dishwasher	_____	_____	_____
Refrigerator	_____	_____	_____
Hood/fan	_____	_____	_____
Disposal	_____	_____	_____
TV antenna, TV rotor & controls	_____	_____	_____
Electrical system	_____	_____	_____
Garage door opener & remote control	_____	_____	_____
Alarm system	_____	_____	_____
Intercom	_____	_____	_____
Central vacuum	_____	_____	_____
Attic fan	_____	_____	_____
Pool heater, wall liner & equipment	_____	_____	_____
Microwave	_____	_____	_____
Trash compactor	_____	_____	_____
Ceiling fan	_____	_____	_____
Sauna/hot tub	_____	_____	_____
Washer	_____	_____	_____
Dryer	_____	_____	_____
Lawn sprinkler system	_____	_____	_____
Water heater	_____	_____	_____
Plumbing system	_____	_____	_____
Water softener/conditioner	_____	_____	_____
Well & pump	_____	_____	_____
Septic tank & drain field	_____	_____	_____
Sump pump	_____	_____	_____
City Water System	_____	_____	_____
City Sewer System	_____	_____	_____
Central air conditioning	_____	_____	_____
Central heating system	_____	_____	_____
Wall furnace	_____	_____	_____
Humidifier	_____	_____	_____
Electronic air filter	_____	_____	_____
Solar heating system	_____	_____	_____
Fireplace & chimney	_____	_____	_____
Wood burning system	_____	_____	_____

Explanations (attach additional sheets if necessary):

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UNLESS OTHERWISE AGREED, ALL HOUSEHOLD APPLIANCES ARE SOLD IN WORKING ORDER EXCEPT AS NOTED, WITHOUT WARRANTY BEYOND DATE OF CLOSING.

Property conditions, improvements & additional information:

1. Basement/crawl space: Has there been evidence of water?

yes \_\_\_\_\_ no \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

2. Insulation: Describe, if known \_\_\_\_\_

Urea Formaldehyde Foam Insulation (UFFI) is installed?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

3. Roof: Leaks?

yes \_\_\_\_\_ no \_\_\_\_\_

Approximate age if known \_\_\_\_\_

4. Well: Type of well (depth/diameter, age, and repair history, if known):

Has the water been tested? \_\_\_\_\_ yes \_\_\_\_\_

If yes, date of last report/results: \_\_\_\_\_

5. Septic tanks/drain fields: Condition, if known: \_\_\_\_\_

6. Heating System: Type/approximate age: \_\_\_\_\_

7. Plumbing system: Type: copper \_\_\_\_\_ galvanized \_\_\_\_\_ other \_\_\_\_\_

Any known problems? \_\_\_\_\_

8. Electrical system: Any known problems? \_\_\_\_\_

9. History of infestation, if any: (termites, carpenter ants, etc.) \_\_\_\_\_

10. Environmental Problems: Are you aware of any substances, materials, or products that may be an environmental hazard such as, but not limited to, asbestos, radon gas, formaldehyde, lead-based paint, fuel or chemical storage tanks and contaminated soil on the property.

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

11. Flood insurance: Do you have flood insurance on the property?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

12. Mineral rights: Do you own the mineral rights?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

Other Items: Are you aware of any of the following:

1. Features of the property shared in common with the adjoining landowners, such as walls, fences, roads and driveways, or other features whose use or responsibility for maintenance may have an effect on the property?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

2. Any encroachments, easements, zoning violations, or nonconforming uses?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

3. Any "common areas" (facilities like pools, tennis courts, walkways, or other areas co-owned with others), or a homeowners' association that has any authority over the property?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

4. Structural modifications, alterations, or repairs made without necessary permits or licensed contractors?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

5. Settling, flooding, drainage, structural, or grading problems?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

6. Major damage to the property from fire, wind, floods, or landslides?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

7. Any underground storage tanks?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

8. Farm or farm operation in the vicinity; or proximity to a landfill, airport, shooting range, etc.?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

9. Any outstanding utility assessments or fees, including any natural gas main extension surcharge?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

10. Any outstanding municipal assessments or fees?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

11. Any pending litigation that could affect the property or the seller's right to convey the property?

unknown \_\_\_\_\_ yes \_\_\_\_\_ no \_\_\_\_\_

If the answer to any of these questions is yes, please explain.

Attach additional sheets, if necessary: \_\_\_\_\_

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The seller has lived in the residence on the property from \_\_\_\_\_ (date) to \_\_\_\_\_ (date). The seller has owned the property since \_\_\_\_\_ (date). The seller has indicated above the condition of all the items based on information known to the seller. If any changes occur in the structural/mechanical/appliance systems of this property from the date of this form to the date of closing, seller will immediately disclose the changes to buyer. In no event shall the parties hold the broker liable for any representations not directly made by the broker or broker's agent.



Seller certifies that the information in this statement is true and correct to the best of seller's knowledge as of the date of seller's signature.

BUYER SHOULD OBTAIN PROFESSIONAL ADVICE AND INSPECTIONS OF THE PROPERTY TO MORE FULLY DETERMINE THE CONDITION OF THE PROPERTY. THESE INSPECTIONS SHOULD TAKE INDOOR AIR AND WATER QUALITY INTO ACCOUNT, AS WELL AS ANY EVIDENCE OF UNUSUALLY HIGH LEVELS OF POTENTIAL ALLERGENS INCLUDING, BUT NOT LIMITED TO, HOUSEHOLD MOLD, MILDEW AND BACTERIA. BUYERS ARE ADVISED THAT CERTAIN INFORMATION COMPILED PURSUANT TO THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, IS AVAILABLE TO THE PUBLIC. BUYERS SEEKING THAT INFORMATION SHOULD CONTACT THE APPROPRIATE LOCAL LAW ENFORCEMENT AGENCY OR SHERIFF'S DEPARTMENT DIRECTLY.

BUYER IS ADVISED THAT THE STATE EQUALIZED VALUE OF THE PROPERTY, PRINCIPAL RESIDENCE EXEMPTION INFORMATION, AND OTHER REAL PROPERTY TAX INFORMATION IS AVAILABLE FROM THE APPROPRIATE LOCAL ASSESSOR'S OFFICE.

BUYER SHOULD NOT ASSUME THAT BUYER'S FUTURE TAX BILLS ON THE PROPERTY WILL BE THE SAME AS THE SELLER'S PRESENT TAX BILLS. UNDER MICHIGAN LAW, REAL PROPERTY TAX OBLIGATIONS CAN CHANGE SIGNIFICANTLY WHEN PROPERTY IS TRANSFERRED.

Seller \_\_\_\_\_

Date \_\_\_\_\_

Seller \_\_\_\_\_

Date \_\_\_\_\_

Buyer has read and acknowledges receipt of this statement.

Buyer \_\_\_\_\_

Date \_\_\_\_\_

Time: \_\_\_\_\_

Buyer \_\_\_\_\_

Date \_\_\_\_\_

Time: \_\_\_\_\_

(2) A form described in subsection (1) printed before January 1, 2006 that was in compliance with this section at that time may be utilized and shall be considered in compliance with this section until April 1, 2006.

**History:** 1993, Act 92, Eff. Jan. 10, 1994 ;-- Am. 1995, Act 106, Eff. Jan. 1, 1996 ;-- Am. 1996, Act 92, Imd. Eff. Feb. 27, 1996 ;-- Am. 2000, Act 12, Imd. Eff. Mar. 8, 2000 ;-- Am. 2000, Act 13, Imd. Eff. Mar. 8, 2000 ;-- Am. 2003, Act 130, Eff. Jan. 1, 2004 ;-- Am. 2005, Act 163, Eff. Jan. 1, 2006

#### **565.958 Availability of copies.**

Sec. 8.

Copies of the form prescribed in section 7 shall be made available to the public by all real estate brokers and real estate salespersons.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

#### **565.959 Additional disclosures.**

Sec. 9.

A city, township, or county may require disclosures in addition to those disclosures required by section 7, and may require disclosures on a different disclosure form in connection with transactions subject to this act.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

#### **565.960 Disclosure; good faith.**

Sec. 10.

Each disclosure required by this act shall be made in good faith. For purposes of this act, "good faith" means honesty in fact in the conduct of the transaction.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

#### **565.961 Other obligations created by law not limited.**

Sec. 11.

The specification of items for disclosure in this act does not limit or abridge any obligation for disclosure created by any other provision of law regarding fraud, misrepresentation, or deceit in transfer transactions.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

#### **565.962 Disclosure; amendment.**

Sec. 12.

Any disclosure made pursuant to this act may be amended in writing by the transferor, but the amendment is subject to section 4.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.963 Disclosure; manner of delivery.**

Sec. 13.

Delivery of a disclosure statement required by this act shall be by personal delivery, facsimile delivery, or by registered mail to the prospective purchaser. Execution of a facsimile counterpart of the disclosure statement shall be considered to be execution of the original.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.964 Transfer not invalidated by noncompliance.**

Sec. 14.

A transfer subject to this act shall not be invalidated solely because of the failure of any person to comply with a provision of this act.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.965 Liability of agent.**

Sec. 15.

An agent of a transferor shall not be liable for any violation of this act by a transferor unless any agent knowingly acts in concert with a transferor to violate this act.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**565.966 Effective date.**

Sec. 16.

This act shall take effect upon the expiration of 180 days after the date of its enactment.

**History:** 1993, Act 92, Eff. Jan. 10, 1994

**MICHIGAN FIRST-TIME HOME BUYER SAVINGS PROGRAM ACT**

**Act 6 of 2022**

AN ACT to create the Michigan first-time home buyer savings program; to provide for first-time home buyer savings accounts; to prescribe the powers and duties of certain state agencies, boards, and departments; to allow certain tax deductions; and to provide for penalties and remedies.

**History:** 2022, Act 6, Imd. Eff. Feb. 9, 2022

*The People of the State of Michigan enact:*

**565.1001 Short title.**

Sec. 1.

This act may be cited as the "Michigan first-time home buyer savings program act".

**History:** 2022, Act 6, Imd. Eff. Feb. 9, 2022

**565.1003 Definitions.**

Sec. 3.

As used in this act:

(a) "Account holder" means an individual who establishes, individually or jointly with 1 or more other individuals, an account with a financial institution for which the account holder claims a first-time home buyer savings account status on his or her income tax return.

(b) "Allowable closing costs" means a disbursement listed on a settlement statement for the purchase of a single-family residence in this state by a qualified beneficiary.

(c) "Department" means the department of treasury.

(d) "Eligible costs" means the down payment and allowable closing costs for the purchase of a single-family residence in this state by a qualified beneficiary.

(e) "Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, or any benefit association, insurance company, safe deposit company, money market mutual fund, broker, or similar entity authorized to do business in this state.

(f) "First-time home buyer" means an individual who is a resident of this state and has not owned or purchased, either individually or jointly, a single-family residence during a period of 3 years prior to the date of the purchase of a single-family residence.

(g) "First-time home buyer savings account" or "account" means an account with a financial institution that an account holder designates as a first-time home buyer savings account on his or her income tax return pursuant to this act for the purpose of paying or reimbursing eligible costs for the purchase of a single-family residence in this state by a qualified beneficiary.

(h) "Principal residence" means that term as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

- (i) "Program" means the first-time home buyer savings program established pursuant to this act.
- (j) "Qualified beneficiary" means a first-time home buyer who is designated as the beneficiary of an account designated by the account holder as a first-time home buyer savings account.
- (k) "Qualified withdrawal" means a withdrawal from an account that is not subject to a penalty under this act or taxation under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.713, and that is a withdrawal from an account that is made at least 1 year after the account was opened and designated as a first-time home buyer savings account and the withdrawal is used to pay the eligible costs of the qualified beneficiary incurred at least 1 year after the account is designated.
- (l) "Settlement statement" means the statement of receipts and disbursements for a transaction related to real estate, including a statement prescribed under the real estate settlement procedures act of 1974 (RESPA), 12 USC 2601 to 2617, or an executed sales agreement for the purchase of a manufactured home being conveyed as personal property.
- (m) "Single-family residence" means a single-family residence owned and occupied by a qualified beneficiary as the qualified beneficiary's principal residence. Single-family residence includes a manufactured home, trailer, mobile home, condominium unit, or cooperative.
- (n) "Treasurer" means the state treasurer.

History: 2022, Act 6, Imd. Eff. Feb. 9, 2022

#### **565.1005 First-time home buyer savings program; establishment; savings account designation; form of contribution.**

Sec. 5.

- (1) The first-time home buyer savings program is established in the department. The purposes, powers, and duties of the first-time home buyer savings program are vested in and shall be exercised by the treasurer or the designee of the treasurer.
- (2) Beginning January 1, 2022 through December 31, 2026, any individual may open an account with a financial institution and designate the account, in its entirety, as a first-time home buyer savings account to be used to pay or reimburse a qualified beneficiary's eligible costs for the purchase of a single-family residence in this state. An account holder shall designate a first-time home buyer as the qualified beneficiary of the first-time home buyer savings account. The account holder may designate himself or herself as the qualified beneficiary and may change the designated qualified beneficiary at any time, but there may not be more than 1 qualified beneficiary at any 1 time.
- (3) An individual may jointly own a first-time home buyer savings account with another person if the joint account holders file a joint return under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. An individual may be the account holder of more than 1 first-time home buyer savings account. However, an account holder cannot have multiple accounts that designate the same qualified beneficiary. An individual may be designated as the qualified beneficiary on more than 1 first-time home buyer savings account.
- (4) Only cash and marketable securities may be contributed to a first-time home buyer savings account. Subject to the limitation under section 11, persons other than the account holder may make contributions to a first-time home buyer savings account.

History: 2022, Act 6, Imd. Eff. Feb. 9, 2022

#### **565.1007 Account holder responsibilities; use of funds; filing with department; maintenance and retention of records; rules; deduction under MCL 206.30; informational materials.**

Sec. 7.

- (1) The account holder is responsible for the use or application of funds in a first-time home buyer savings account. The account holder shall not use funds held in an account to pay expenses of administering the account, except that a service fee may be deducted from the account by a financial institution in which the account is held. An account holder may withdraw funds, in whole or in part, from a first-time home buyer savings account and deposit the funds in a new first-time home buyer savings account held by a different financial institution or the same financial institution. If necessary, an account holder or qualified beneficiary may make a hardship withdrawal from the account due to an immediate and heavy financial need of the account holder or qualified beneficiary. However, the amount withdrawn must be limited to the amount necessary to satisfy that need. A hardship withdrawal is not a qualified withdrawal and will be subject to taxation under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.
- (2) An account holder shall submit, with the account holder's income tax return filed under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, all of the following to the department, along with the form prescribed by the department under subsection (5):
  - (a) Account statements that show the contributions made during the tax year and the taxable interest or earnings on the account in the tax year for which the deduction is claimed.
  - (b) The Form 1099 issued by the financial institution for the account for the tax year for which the deduction is claimed.
  - (c) Upon a withdrawal of funds from a first-time home buyer savings account, a copy of the real estate settlement statement that shows that the withdrawal was used for eligible costs.
- (3) An account holder shall maintain and keep, for a period of at least 4 years, suitable records and documentation, for each first-time home buyer savings account, including, but not limited to, account statements for all contributions and withdrawals made, a detailed list describing the transactions for the account, and other pertinent records and papers as required by the department for the administration of this act.
- (4) The treasurer may promulgate rules to implement the program in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules shall not apply to, or impose administrative, reporting, or other obligations or requirements on, financial institutions-related accounts for first-time home buyer savings accounts.
- (5) The department shall prescribe the form and manner in which a taxpayer shall claim a deduction in accordance with this act and section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30, on his or her income tax return filed under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. The form shall include, at a minimum all of the following:
  - (a) The account holder's name.
  - (b) The name of the qualified beneficiary.
  - (c) The name of the financial institution and the account number.
  - (d) The beginning and end of the year balance of the account.
  - (e) The amount of the deduction claimed for the tax year.
- (6) The department may prepare and distribute informational materials on the Michigan first-time home buyer savings program to financial institutions and potential home buyers to publicize the availability of the program.

History: 2022, Act 6, Imd. Eff. Feb. 9, 2022

#### **565.1009 Financial institution duties and responsibilities.**

Sec. 9.

- (1) A financial institution is not required to do any of the following:
  - (a) Designate an account as a first-time home buyer savings account, or designate the qualified beneficiaries of an account, in the financial institution's account contracts or systems or in any other way.
  - (b) Track the use of money withdrawn from a first-time home buyer savings account.
  - (c) Allocate funds in a first-time home buyer savings account among joint account holders or multiple qualified beneficiaries.
  - (d) Report any information to the department that is not otherwise required by law.
- (2) A financial institution is not responsible or liable for any of the following:
  - (a) Determining or ensuring that an account satisfies the requirements to be a first-time home buyer savings account.
  - (b) Determining or ensuring that funds in a first-time home buyer savings account are used for eligible cost.
  - (c) Reporting or remitting taxes or penalties related to the use of a first-time home buyer savings account.

(3) Upon being furnished proof of the death of the account holder and any other information required by the contract governing the first-time home buyer savings account, a financial institution shall distribute the principal and accumulated interest or other income in the account in accordance with the terms of the contract governing the account.

**History:** 2022, Act 6, Imd. Eff. Feb. 9, 2022

**565.1011 Maximum account balance limit; contributions, interest earned, and qualified withdrawals as tax exempt.**

Sec. 11.

(1) The maximum account balance limit for a first-time home buyer savings account shall not exceed a maximum of \$50,000.00. Accounts may continue to accrue earnings if the total balance has reached the maximum account balance limit and shall not be considered to have exceeded the maximum account balance limit under this subsection.

(2) Contributions to and interest earned on a first-time home buyer savings account are exempt from taxation as provided in section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30.

(3) Qualified withdrawals made from first-time home buyer savings accounts are exempt from taxation as provided in section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30.

**History:** 2022, Act 6, Imd. Eff. Feb. 9, 2022

**565.1013 Improper use of funds; penalties; exceptions; definitions.**

Sec. 13.

(1) If funds are withdrawn from an account for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, there is a penalty equal to 10% of the amount withdrawn. The penalty shall be paid to the department.

(2) The penalty does not apply if the funds withdrawn satisfy any of the following:

(a) Withdrawn by reason of the qualified beneficiary's death or disability.

(b) A disbursement of assets of the account pursuant to a filing for protection under the United States bankruptcy code, 11 USC 101 to 1330.

(c) Transferred from an account established pursuant to this act into another account established pursuant to this act for the benefit of another qualified beneficiary as provided in section 7.

(d) Withdrawn by reason of a hardship withdrawal as provided in section 7.

(e) Withdrawn by reason of qualified beneficiary who is a service member who is transferred or deployed out of this state on active duty pursuant to a permanent change of station order and provides proof acceptable to the department that the qualified beneficiary or his or her spouse is assigned to a duty station outside this state under a permanent change of station order.

(3) As used in this section:

(a) "Active duty" means active duty pursuant to an executive order of the President of the United States, an act of Congress, or an order of the governor.

(b) "Armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

(c) "Michigan National Guard" means that term as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

(d) "Service member" means a member of the armed forces, a reserve branch of the armed forces, or the Michigan National Guard.

**History:** 2022, Act 6, Imd. Eff. Feb. 9, 2022