



# HOUSE BILL No. 5445

November 30, 1995, Introduced by Reps. Pitoniak, DeMars, Brewer, Varga and Bobier and referred to the Committee on Judiciary and Civil Rights.

A bill to amend the title and sections 1, 2, 3, 4, 5, 6, 7, 12, 13, 14, 15, 16, 20, 21, 22, 24, 25, 26, 27, 28, and 29 of chapter 66 of the Revised Statutes of 1846, entitled "Of estates in dower, by the curtesy, and general provisions concerning real estate," being sections 558.1, 558.2, 558.3, 558.4, 558.5, 558.6, 558.7, 558.12, 558.13, 558.14, 558.15, 558.16, 558.20, 558.21, 558.22, 558.24, 558.25, 558.26, 558.27, 558.28, and 558.29 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. The title and sections 1, 2, 3, 4, 5, 6, 7, 12,  
2 13, 14, 15, 16, 20, 21, 22, 24, 25, 26, 27, 28, and 29 of chapter  
3 66 of the Revised Statutes of 1846, being sections 558.1, 558.2,  
4 558.3, 558.4, 558.5, 558.6, 558.7, 558.12, 558.13, 558.14,  
5 558.15, 558.16, 558.20, 558.21, 558.22, 558.24, 558.25, 558.26,

1 558.27, 558.28, and 558.29 of the Michigan Compiled Laws, are  
2 amended to read as follows:

3 TITLE

4 Of estates in dower ~~, by the curtesy,~~ and general provi-  
5 sions concerning real estate.

6 Sec. 1. The ~~widow~~ SURVIVING SPOUSE of every deceased  
7 person ~~, shall be~~ IS entitled to dower ~~,~~ or the use during HIS  
8 OR her natural life ~~,~~ of 1/3 part of all the lands ~~whereof her~~  
9 ~~husband~~ IN WHICH THE DECEASED PERSON was seized of an estate of  
10 inheritance ~~,~~ at any time during the marriage, unless ~~she~~ THE  
11 SURVIVING SPOUSE is lawfully barred ~~thereof~~ FROM THIS  
12 ENTITLEMENT.

13 Sec. 2. If ~~a husband~~ AN INDIVIDUAL seized of an estate  
14 of inheritance in lands ~~, exchange~~ EXCHANGES them for other  
15 lands, his ~~widow~~ OR HER SURVIVING SPOUSE shall not have dower  
16 of both, but shall make ~~her~~ AN election to be endowed of the  
17 lands given ~~,~~ or of those taken in exchange. ~~, and if such~~ IF  
18 A SURVIVING SPOUSE DOES NOT MAKE AN election ~~be not evinced by~~  
19 ~~the commencement of~~ BY COMMENCING proceedings to recover HIS OR  
20 her dower of the lands given in exchange ~~,~~ within 1 year after  
21 the death of ~~her husband, she shall be deemed~~ THE INDIVIDUAL,  
22 THE SURVIVING SPOUSE IS CONSIDERED to have elected to take HIS OR  
23 her dower of the lands received in exchange.

24 Sec. 3. ~~When a person~~ IF AN INDIVIDUAL seized of an  
25 estate of inheritance in lands ~~, shall have~~ executed a mortgage  
26 of ~~such~~ THAT estate before marriage, his ~~widow shall be~~ OR  
27 HER SURVIVING SPOUSE IS entitled to a dower out of the lands

1 mortgaged ~~—~~ as against every person except the mortgagee and  
 2 those claiming under ~~him~~ THE MORTGAGEE.

3       Sec. 4. ~~When a husband shall purchase~~ IF AN INDIVIDUAL  
 4 PURCHASES lands during ~~coverture,~~ MARRIAGE and ~~shall~~ at the  
 5 same time ~~mortgage~~ MORTGAGES his OR HER estate in ~~such~~ THOSE  
 6 lands to secure the payment of the purchase money, ~~his widow~~  
 7 ~~shall not be~~ THE INDIVIDUAL'S SURVIVING SPOUSE IS NOT entitled  
 8 to dower out of ~~such~~ THOSE lands ~~—~~ as against the mortgagee  
 9 or those claiming under ~~him~~ THE MORTGAGEE, although ~~she shall~~  
 10 ~~not have united in such~~ THE SURVIVING SPOUSE DID NOT UNITE IN  
 11 THE mortgage. ~~—, but she shall be~~ HOWEVER, THE SURVIVING SPOUSE  
 12 IS entitled to HIS OR her dower as against all other persons.

13       Sec. 5. ~~Where in either of the cases mentioned in the 2~~  
 14 ~~last preceding sections, or in case of a mortgage in which she~~  
 15 ~~shall have joined with her husband~~ IF AN INDIVIDUAL EXECUTES A  
 16 MORTGAGE OR PURCHASES LAND IN A MANNER DESCRIBED IN SECTION 3 OR  
 17 4, OR JOINED WITH HIS OR HER SPOUSE TO EXECUTE A MORTGAGE, the  
 18 mortgagee ~~—~~ or those claiming under ~~him~~ THE MORTGAGEE shall  
 19 after the death of the ~~husband~~ INDIVIDUAL cause the mortgaged  
 20 premises to be sold by virtue of ~~such~~ THE mortgage, and ~~any~~  
 21 ~~surplus shall remain~~ IF A SURPLUS REMAINS after payment of the  
 22 ~~moneys~~ MONEY due ~~thereon~~ ON THE MORTGAGE and the costs and  
 23 charges of the sale, ~~such widow shall be~~ THEN THE SURVIVING  
 24 SPOUSE IS entitled to the interest or income of 1/3 part of  
 25 ~~such~~ THAT surplus, for HIS OR her life, as dower.

26       Sec. 6. If, in either of the cases ~~above~~ specified IN  
 27 SECTION 3 OR 4, the heir or other person claiming under the

1 ~~husband, shall pay and satisfy~~ DECEASED INDIVIDUAL PAYS AND  
 2 SATISFIES the mortgage, the amount so paid shall be deducted from  
 3 the value of the land, and the ~~widow~~ SURVIVING SPOUSE shall  
 4 have set out to HIM OR her, for HIS OR her dower in the mortgaged  
 5 lands, the value of 1/3 of the residue after ~~such~~ THE  
 6 deduction.

7       Sec. 7. ~~When a widow shall be~~ IF AN INDIVIDUAL'S SURVIV-  
 8 ING SPOUSE IS entitled to dower out of ~~any~~ THE lands ~~which~~  
 9 ~~shall have been~~ THAT WERE aliened by the ~~husband~~ DECEASED  
 10 INDIVIDUAL in his OR HER lifetime, and ~~such~~ THE lands ~~shall~~  
 11 ~~have been enhanced~~ INCREASED in value after the alienation,  
 12 ~~such~~ THEN THE VALUE OF THE lands shall be estimated, in setting  
 13 out the ~~widow's~~ SURVIVING SPOUSE'S dower, according to their  
 14 value at the time ~~when~~ THAT they were ~~so~~ aliened.

15       Sec. 12. ~~When a widow~~ IF A SURVIVING SPOUSE is entitled  
 16 to dower in the lands of which ~~her husband~~ AN INDIVIDUAL died  
 17 seized, ~~she~~ THE SURVIVING SPOUSE may continue to occupy the  
 18 ~~same~~ LANDS with the children or other heirs of the deceased  
 19 INDIVIDUAL, or may receive 1/3 part of the rents, issues, and  
 20 profits ~~thereof~~ FROM THE LAND, so long as the heirs or others  
 21 interested do not object, without having the dower assigned.

22       Sec. 13. A married ~~woman~~ INDIVIDUAL residing ~~within~~ IN  
 23 this state may bar HIS OR her right of dower in ~~any~~ THE estate  
 24 conveyed by ~~her husband or by his guardian, if he be~~ HIS OR HER  
 25 SPOUSE, OR BY THE SPOUSE'S GUARDIAN IF THE SPOUSE IS under guard-  
 26 ianship, by ~~joining~~ 1 OF THE FOLLOWING METHODS:

1 (A) JOINING in the deed of conveyance and acknowledging ~~the~~  
2 ~~same~~ IT as prescribed in ~~the preceding chapter, or by joining~~  
3 ~~with her husband in a subsequent deed, acknowledged in like~~  
4 ~~manner, or by deed executed by the wife alone to one who has~~  
5 ~~theretofore acquired and then holds the husband's title, provided~~  
6 ~~the intent to bar her right of dower shall be expressed in said~~  
7 ~~deed~~ CHAPTER 65 OF THE REVISED STATUTES OF 1846, BEING SECTIONS  
8 565.1 TO 565.49 OF THE MICHIGAN COMPILED LAWS.

9 (B) JOINING WITH HIS OR HER SPOUSE IN A SUBSEQUENT DEED AND  
10 ACKNOWLEDGING IT AS PRESCRIBED IN CHAPTER 65 OF THE REVISED  
11 STATUTES OF 1846.

12 (C) ALONE EXECUTING A DEED TO ANOTHER PERSON WHO ACQUIRED  
13 AND HOLDS HIS OR HER SPOUSE'S TITLE, IF THE INTENT TO BAR THE  
14 RIGHT OF DOWER IS EXPRESSED IN THE DEED.

15 Sec. 14. ~~A woman~~ AN INDIVIDUAL may also be barred of  
16 ~~her~~ dower in all the lands of HIS OR her ~~husband~~ DECEASED  
17 SPOUSE by a jointure settled on ~~her with her~~ THE INDIVIDUAL  
18 WITH HIS OR HER assent before the marriage, ~~provided such~~ IF  
19 THE jointure consists of a freehold estate in lands for the life  
20 of the ~~wife~~ INDIVIDUAL at least, to take effect in possession  
21 or profit immediately on the death of ~~the husband~~ HIS OR HER  
22 SPOUSE.

23 Sec. 15. ~~Such~~ THE assent REQUIRED IN SECTION 14 shall be  
24 expressed ~~, if the woman be~~ BY 1 OF THE FOLLOWING METHODS:

25 (A) IF THE INDIVIDUAL IS of full age, by ~~her becoming~~  
26 BEING a party to the conveyance by which it is settled. ~~, and if~~  
27 ~~she be~~

1 (B) IF THE INDIVIDUAL IS under age, by ~~her~~ joining with  
 2 HIS OR her ~~father~~ PARENT or guardian in ~~such~~ THE conveyance.

3 Sec. 16. ~~Any~~ A pecuniary provision that ~~shall be~~ IS  
 4 made BY AN INDIVIDUAL for the benefit of an intended ~~wife~~  
 5 SPOUSE, and in lieu of dower, ~~shall,~~ if assented to as provided  
 6 in ~~the preceding~~ section 15, ~~bar her~~ BARS THE INTENDED  
 7 SPOUSE'S right of dower in all the INDIVIDUAL'S lands. ~~of her~~  
 8 husband.

9 Sec. 20. If ~~a woman~~ AN INDIVIDUAL is lawfully evicted of  
 10 lands assigned to HIM OR her as dower ~~or~~ or settled upon HIM OR  
 11 her as jointure, or is deprived of the provision made for HIM OR  
 12 her by will or otherwise ~~or~~ in lieu of dower, HE OR she may be  
 13 endowed anew, in like manner as if ~~such~~ THE assignment,  
 14 jointure, or other provision had not been made.

15 Sec. 21. ~~A woman being~~ AN INDIVIDUAL WHO IS an alien ~~or~~  
 16 ~~shall~~ IS not on that account ~~be~~ barred of ~~her~~ dower, and  
 17 ~~any woman~~ AN INDIVIDUAL residing out of ~~the state, shall be~~  
 18 THIS STATE IS entitled to dower of the lands of HIS OR her  
 19 deceased ~~husband, lying~~ SPOUSE THAT LIE in this state, of which  
 20 ~~her husband~~ THE SPOUSE died seized, and ~~the same~~ DOWER may be  
 21 assigned to HIM OR her ~~or~~ or recovered by HIM OR her ~~in like~~  
 22 ~~manner~~ as if ~~she and her deceased husband~~ THE INDIVIDUAL AND  
 23 THE INDIVIDUAL'S DECEASED SPOUSE had been residents ~~within the~~  
 24 OF THIS state at the time of ~~his~~ THE SPOUSE'S death.

25 Sec. 22. ~~No woman, who shall be~~ AN INDIVIDUAL WHO IS  
 26 endowed of ~~any~~ lands ~~or~~ shall NOT commit or suffer any waste  
 27 on the ~~same~~ LANDS, but ~~every woman so endowed~~ shall maintain

1 the houses and tenements, with the fences and appurtenances in  
 2 good repair, and ~~shall be~~ IS liable to the person having the  
 3 next immediate estate of inheritance ~~therein,~~ IN THE LANDS for  
 4 all damages occasioned by ~~any~~ waste committed or suffered by  
 5 HIM OR her.

6 Sec. 24. ~~Whenever in any action brought for the purpose,~~  
 7 ~~a widow shall recover her~~ IF, IN AN ACTION BROUGHT FOR THE PUR-  
 8 POSE, AN INDIVIDUAL RECOVERS dower in lands of which ~~her husband~~  
 9 ~~shall have~~ HIS OR HER SPOUSE died seized, ~~she shall be~~ THEN  
 10 THE INDIVIDUAL IS entitled also to recover damages for the with-  
 11 holding of ~~such~~ dower.

12 Sec. 25. ~~Such damages~~ DAMAGES UNDER SECTION 24 shall be  
 13 1/3 part of the annual value of the mesne profits of the lands in  
 14 which ~~she shall so recover her~~ THE INDIVIDUAL RECOVERED dower,  
 15 to be estimated in a suit against the heirs of ~~her husband,~~ THE  
 16 INDIVIDUAL'S DECEASED SPOUSE from the time of his OR HER death,  
 17 ~~—~~ and in suits against other persons from the time ~~of her~~  
 18 ~~demanding her dower of such~~ THE INDIVIDUAL WHO RECOVERED DOWER  
 19 DEMANDED THE DOWER FROM THOSE OTHER persons.

20 Sec. 26. ~~Such damages~~ DAMAGES UNDER SECTION 24 THAT ARE  
 21 ESTIMATED AS DESCRIBED IN SECTION 25 shall not be estimated for  
 22 the use of ~~any~~ A permanent ~~improvements~~ IMPROVEMENT made  
 23 after the death of ~~her husband~~ THE DECEASED SPOUSE by his OR  
 24 HER heirs ~~—~~ or by ~~any other~~ ANOTHER person claiming title to  
 25 ~~such~~ THE lands.

26 Sec. 27. ~~When a widow shall recover her~~ IF AN INDIVIDUAL  
 27 RECOVERS dower in ~~any~~ lands alienated by the heir of ~~her~~

1 ~~husband,~~ THE INDIVIDUAL'S SPOUSE, HE OR she ~~shall be~~ IS  
 2 entitled to recover ~~of such~~ FROM THAT heir, in an action on the  
 3 case, ~~her~~ damages for withholding ~~such~~ THE dower ~~,~~ from the  
 4 time of the death of ~~her husband~~ THE DECEASED SPOUSE to the  
 5 time of the alienation by the heir, BUT not exceeding 6 years.  
 6 ~~in the whole, and the amount which she shall be~~ THE AMOUNT THAT  
 7 THE INDIVIDUAL IS entitled to recover from ~~such~~ THE heir ~~,~~  
 8 shall be deducted from the amount HE OR she would otherwise be  
 9 entitled to recover from ~~such~~ THE grantee, and ~~any~~ THE amount  
 10 recovered as damages ~~,~~ from ~~such~~ THE grantee ~~,~~ shall be  
 11 deducted from the sum HE OR she would otherwise be entitled to  
 12 recover from ~~such~~ THE heir.

13       Sec. 28. ~~When the widow shall have~~ IF AN INDIVIDUAL  
 14 accepted an assignment of dower ~~,~~ in satisfaction of ~~her~~ THE  
 15 INDIVIDUAL'S claim upon all the lands of ~~her husband, it shall~~  
 16 ~~be~~ HIS OR HER SPOUSE, THE ASSIGNMENT IS a bar to ~~any~~ A further  
 17 claim of dower against the ~~heir of such husband, or any grantee~~  
 18 ~~of such heir, or any grantee of such husband, unless such widow~~  
 19 ~~shall have been~~ SPOUSE'S HEIR OR GRANTEE, OR THE HEIR'S GRANTEE,  
 20 UNLESS THE INDIVIDUAL WAS lawfully evicted of the lands so  
 21 assigned to HIM OR her. ~~as aforesaid.~~

22       Sec. 29. ~~When a widow not having~~ IF AN INDIVIDUAL WHO  
 23 HAS NO right to dower, ~~shall~~ during the infancy of the heirs of  
 24 the ~~husband~~ INDIVIDUAL'S SPOUSE, or any of them, or of ~~any~~ A  
 25 person entitled to the lands, ~~recover~~ RECOVERS dower by the  
 26 default or collusion of the guardian of ~~such~~ THEN THE infant,  
 27 heir, or other person, ~~such~~ THEN THE heir or other person so

1 entitled ~~shall~~ IS not ~~be~~ prejudiced ~~thereby~~ BY THAT  
2 RECOVERY, but when he OR SHE comes of full age, he ~~shall have~~  
3 OR SHE HAS an action against ~~such widow,~~ THE INDIVIDUAL to  
4 recover the lands ~~so~~ wrongfully awarded for dower.

5 Section 2. This amendatory act shall not take effect unless  
6 Senate Bill No. \_\_\_\_\_ or House Bill No. 5441 (request  
7 no. 03904'95) of the 88th Legislature is enacted into law.