



HOUSE BILL No. 6063

September 12, 1996, Introduced by Reps. Pitoniak, Freeman, Kelly, Kaza, DeMars, Llewellyn, Voorhees, Gire, Scott and Galloway and referred to the Committee on Local Government.

A bill to amend section 1 of Act No. 103 of the Public Acts of 1937, entitled

"An act to prescribe certain conditions relative to the execution of instruments entitled to be recorded in the office of the register of deeds,"

being section 565.201 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 1 of Act No. 103 of the Public Acts of
2 1937, being section 565.201 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 1. (1) ~~No~~ AN instrument by which the title to real
5 estate or any interest therein is conveyed, assigned, encumbered
6 or otherwise disposed of, ~~executed after the effective date of~~
7 ~~this act~~ shall NOT be received for record by the register of
8 deeds of any county of the state unless the ~~same~~ INSTRUMENT
9 complies with each of the following requirements:

1 (a) The name of each person who executed ~~such~~ THE
2 instrument shall be legibly printed, typewritten, or stamped upon
3 ~~such~~ THE instrument immediately beneath the signature of ~~such~~
4 THE person and the address of each such person shall be printed,
5 typewritten, or stamped upon the face of the instrument. —

6 (b) ~~No~~ A discrepancy shall NOT exist between the name of
7 ~~such~~ THE person as it appears either in the body of ~~such~~ THE
8 instrument, the acknowledgment or jurat, as printed, typewritten,
9 or stamped upon ~~such~~ THE instrument by the signature, or in the
10 signature of ~~such~~ THE person. —

11 (c) The name of each witness to ~~such~~ THE instrument shall
12 be legibly printed, typewritten, or stamped upon ~~such~~ THE
13 instrument immediately beneath the signature of ~~such~~ THE
14 witness. —

15 (d) The name of any notary public whose signature appears
16 upon ~~such~~ THE instrument shall be legibly printed, typewritten,
17 or stamped upon ~~such~~ THE instrument immediately beneath the
18 signature of ~~such~~ THE notary public. —

19 (e) Wherever in this act it is required that the name of a
20 person shall be — printed, typewritten, or stamped upon ~~such~~
21 THE instrument immediately beneath the signature — of ~~such~~
22 THE person, it is the intent of the legislature to require that
23 ~~such~~ THE signature be written upon ~~such~~ THE instrument
24 directly preceding ~~such~~ THE name so — printed, typewritten,
25 or stamped. —. ~~Such~~ THE signature shall not ~~, however,~~ be
26 superimposed upon ~~such~~ THE name so as to render either
27 illegible. ~~Such~~ THE instrument shall ~~, however,~~ be entitled

1 to be received for record if ~~such~~ THE name and signature are in
2 the discretion of the register of deeds so placed upon ~~such~~ THE
3 instrument as to render the connection between the ~~2~~ NAME AND
4 THE SIGNATURE apparent. Any instrument received and recorded by
5 a register of deeds shall be conclusively presumed to comply with
6 the requirements of this act. The requirements contained in this
7 act shall be cumulative to the requirements imposed by any other
8 act relating to the recording of instruments. ~~7~~

9 (f) The address of each of the grantees in each deed of con-
10 veyance or assignment of real estate, including the street number
11 address if located within territory where such street number
12 addresses are in common use, or, if not, the post office address
13 shall be legibly printed, typewritten, or stamped in ~~such~~ THE
14 instrument. ~~7~~

15 (g) Instruments shall not be typewritten or printed in type
16 smaller than 8 point size, and the size of any sheet in ~~any~~
17 ~~such~~ AN instrument shall not exceed 8 1/2 by 14 inches, and
18 shall be legible and on paper of not less than 13 (17x22--500)
19 pound weight. Nothing in this subdivision shall affect instru-
20 ments executed outside the state or the filing or recording of
21 plats or other instruments, the size of which are regulated by
22 law.

23 (2) THE REGISTER OF DEEDS SHALL NOT RECEIVE FOR RECORD A
24 LIEN ON THE REAL OR PERSONAL PROPERTY OF ANOTHER PERSON UNLESS
25 THE PERSON PRESENTING THE LIEN PRESENTS BOTH OF THE FOLLOWING:

1 (A) A FULL AND FAIR ACCOUNTING OF THE FACTS THAT SUPPORT
2 RECORDING OF THE INSTRUMENT OF ENCUMBRANCE AND SUPPORTING
3 DOCUMENTATION, AS AVAILABLE.

4 (B) PROOF OF SERVICE THAT ACTUAL NOTICE HAS BEEN GIVEN TO
5 THE RECORDED LANDOWNER OF THE LAND TO WHICH THE INSTRUMENT OF
6 ENCUMBRANCE APPLIES.

7 (3) SUBSECTION (2) DOES NOT APPLY TO ANY OF THE FOLLOWING:

8 (A) A TAX LIEN THAT IS NOT REQUIRED TO BE RECORDED PURSUANT
9 TO THE GENERAL PROPERTY TAX ACT, ACT NO. 206 OF THE PUBLIC ACTS
10 OF 1893, BEING SECTIONS 211.1 TO 211.157 OF THE MICHIGAN COMPILED
11 LAWS.

12 (B) THE FILING OF AN INSTRUMENT OF ENCUMBRANCE AUTHORIZED BY
13 STATE STATUTE OR FEDERAL STATUTE.

14 (C) THE FILING OF A CONSENSUAL AGREEMENT TO ENCUMBER REAL
15 PROPERTY ENTERED INTO BETWEEN THE OWNER OF REAL PROPERTY AND THE
16 PERSON WHO SEEKS TO RECORD AN ENCUMBRANCE. A CONSENSUAL AGREE-
17 MENT INCLUDES BUT IS NOT LIMITED TO A MORTGAGE, LOAN AGREEMENT,
18 LAND CONTRACT, OR OTHER CONSENSUAL OR CONTRACTUAL AGREEMENT OF
19 WHATEVER DESCRIPTION ENTERED INTO BETWEEN THE OWNER OF REAL PROP-
20 ERTY AND THE PERSON WHO SEEKS TO RECORD AN ENCUMBRANCE.

21 (D) THE FILING OF AN ENCUMBRANCE AUTHORIZED IN A FINAL ORDER
22 BY A COURT OF COMPETENT JURISDICTION.

23 (E) A FILING OF A LEVY, ATTACHMENT, LIEN, LIS PENDENS,
24 SHERIFF'S CERTIFICATE, MARSHAL'S CERTIFICATE, OR OTHER INSTRUMENT
25 OF ENCUMBRANCE BY A COMMERCIAL LENDING INSTITUTION. AS USED IN
26 THIS SECTION, "COMMERCIAL LENDING INSTITUTION" MEANS ANY OF THE
27 FOLLOWING:

1 (i) A STATE OR NATIONALLY CHARTERED BANK.

2 (ii) A STATE OR FEDERALLY CHARTERED SAVINGS AND LOAN ASSOCI-
3 ATION OR SAVINGS BANK.

4 (iii) A STATE OR FEDERALLY CHARTERED CREDIT UNION.

5 (iv) ANY OTHER STATE OR FEDERALLY CHARTERED LENDING INSTITU-
6 TION OR REGULATED AFFILIATE OR REGULATED SUBSIDIARY OF ANY ENTITY
7 LISTED IN THIS SUBPARAGRAPH OR SUBPARAGRAPHS (i) TO (iii).

8 (v) AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN THIS
9 STATE PURSUANT TO THE INSURANCE CODE OF 1956, ACT NO. 218 OF THE
10 PUBLIC ACTS OF 1956, BEING SECTIONS 500.100 TO 500.8302 OF THE
11 MICHIGAN COMPILED LAWS.

12 (vi) A MOTOR VEHICLE FINANCE COMPANY SUBJECT TO THE MOTOR
13 VEHICLE SALES FINANCE ACT, ACT NO. 27 OF THE EXTRA SESSION OF
14 1950, BEING SECTIONS 492.101 TO 492.141 OF THE MICHIGAN COMPILED
15 LAWS, WITH NET ASSETS IN EXCESS OF \$50,000,000.00.

16 (vii) A FOREIGN BANK.

17 (viii) A RETIREMENT FUND REGULATED PURSUANT TO STATE LAW, OR
18 A PENSION FUND OF A LOCAL UNIT OF GOVERNMENT OR A PENSION FUND
19 REGULATED PURSUANT TO FEDERAL LAW WITH NET ASSETS IN EXCESS OF
20 \$50,000,000.00.

21 (ix) A FEDERAL, STATE, OR LOCAL AGENCY AUTHORIZED BY LAW TO
22 HOLD A SECURITY INTEREST IN REAL PROPERTY OR A LOCAL UNIT OF GOV-
23 ERNMENT HOLDING A REVERSIONARY INTEREST IN REAL PROPERTY.

24 (x) A NONPROFIT TAX EXEMPT ORGANIZATION CREATED TO PROMOTE
25 ECONOMIC DEVELOPMENT IN WHICH A MAJORITY OF THE ORGANIZATION'S
26 ASSETS ARE HELD BY A LOCAL UNIT OF GOVERNMENT.

1 (xi) AN ENTITY WITHIN THE FEDERALLY CHARTERED FARM CREDIT
2 SYSTEM.

3 (xii) A LICENSEE UNDER THE MORTGAGE BROKERS, LENDERS, AND
4 SERVICERS LICENSING ACT, ACT NO. 173 OF THE PUBLIC ACTS OF 1987,
5 BEING SECTIONS 445.1651 TO 445.1684 OF THE MICHIGAN COMPILED
6 LAWS.

7 (xiii) A HOLDER UNDER THE HOME IMPROVEMENT FINANCE ACT, ACT
8 NO. 332 OF THE PUBLIC ACTS OF 1965, BEING SECTIONS 445.1101 TO
9 445.1431 OF THE MICHIGAN COMPILED LAWS.

10 (xiv) A RETAIL SELLER UNDER THE RETAIL INSTALLMENT SALES
11 ACT, ACT NO. 224 OF THE PUBLIC ACTS OF 1966, BEING
12 SECTIONS 445.851 TO 445.873 OF THE MICHIGAN COMPILED LAWS.

13 (xv) A LICENSEE UNDER ACT NO. 125 OF THE PUBLIC ACTS OF
14 1981, BEING SECTIONS 493.51 TO 493.81 OF THE MICHIGAN COMPILED
15 LAWS, PERTAINING TO SECONDARY MORTGAGES.

16 (xvi) A LICENSEE UNDER THE CONSUMER FINANCIAL SERVICES ACT,
17 ACT NO. 161 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS 487.2051
18 TO 487.2072 OF THE MICHIGAN COMPILED LAWS.

19 (xvii) A LICENSEE UNDER THE REGULATORY LOAN ACT OF 1968, ACT
20 NO. 21 OF THE PUBLIC ACTS OF 1939, BEING SECTIONS 493.1 TO 493.26
21 OF THE MICHIGAN COMPILED LAWS.

22 (xviii) A REGULATED LENDER UNDER THE CREDIT REFORM ACT, ACT
23 NO. 162 OF THE PUBLIC ACTS OF 1995, BEING SECTIONS 445.1851 TO
24 445.1864 OF THE MICHIGAN COMPILED LAWS.