

# HOUSE BILL No. 5866

September 13, 2016, Introduced by Rep. Love and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending section 248b (MCL 750.248b), as added by 2011 PA 206.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 248b. (1) A person who falsely makes, alters, forges, or  
2       counterfeits a deed, a discharge of mortgage, or a power or letter  
3       of attorney or other document that affects an interest in real  
4       property with intent to injure or defraud another person is guilty  
5       of a felony punishable by imprisonment for not more than 14 years.

6       (2) This section does not apply to a scrivener's error.

7       (3) The venue in a prosecution under this section may be in  
8       the county in which the forgery was performed, ~~+~~in a county in  
9       which the false, altered, forged, or counterfeit document is

1 uttered and published with intent to injure or defraud, ~~+~~ or in the  
2 county in which the rightful property owner resides.

3 (4) In proceedings that result in a conviction under this  
4 section or for any lesser included offense, the circuit court shall  
5 enter an order stating that the false, altered, forged, or  
6 counterfeit document is invalid and require that a certified copy  
7 of the court order with the invalid document, if not previously  
8 recorded, be attached and recorded in the office of the register of  
9 deeds of the county where the subject property or part of the  
10 property is located, as provided in section 2935 of the revised  
11 judicature act of 1961, 1961 PA 236, MCL 600.2935. If the invalid  
12 document has previously been recorded, the prosecutor shall provide  
13 the circuit court with the liber and page number or unique  
14 identifying reference number of the invalid document, which shall  
15 be included in the order. The register of deeds shall make  
16 reference to the liber and page number or unique identifying  
17 reference number of the invalid document in the index of the  
18 recorded documents. Any recording fees incurred under this  
19 subsection shall be paid as ordered by the court.

20 (5) IF THE REGISTER OF DEEDS OR THE OFFICE OF THE GREAT SEAL  
21 DETERMINES AND TESTIFIES THAT A NOTARY PUBLIC ATTESTATION AND  
22 SIGNATURE AFFIXED TO A DOCUMENT OFFERED AS EVIDENCE IN A  
23 PROSECUTION UNDER THIS SECTION IS 1 OF THE FOLLOWING, IT SHALL BE  
24 PRESUMED THAT THE DOCUMENT IS FALSE, COUNTERFEIT, OR FRAUDULENT:

25 (A) THE SECRETARY OF STATE HAS NO RECORD OF APPOINTING THE  
26 LISTED NOTARY PUBLIC.

27 (B) THE NOTARY PUBLIC WAS APPOINTED A NOTARY PUBLIC, BUT THE

1 NOTARY PUBLIC TESTIFIES THAT HE OR SHE DID NOT WITNESS THE SIGNING  
2 OF THE DOCUMENT IN QUESTION.

3 (6) THE PRESUMPTION DESCRIBED IN SUBSECTION (5) MAY BE  
4 REBUTTED BY CLEAR AND CONVINCING EVIDENCE.

5 Enacting section 1. This amendatory act takes effect 90 days  
6 after the date it is enacted into law.