



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 4524 (Substitute H-1 as passed by the House)  
Sponsor: Representative Douglas Wozniak  
House Committee: Judiciary  
Senate Committee: Regulatory Affairs

Date Completed: 9-17-25

## **INTRODUCTION**

Generally, the bill would amend the Public Act that governs a marketable record title, which is a property title that is free and clear of all interests, claims, and charges. To obtain a marketable record title, an individual, corporation, or other entity legally allowed to own land must demonstrate an unbroken chain of title over the previous 40 years or, for a mineral interest, 20 years; however, the Act allows persons with existing interests, claims, or charges to preserve those interests within a certain period. The bill would extend this period from September 29, 2025, to two years after the bill's effective date, effectively allowing current claims to proceed. The bill also would modify the process through which a claim against a property could be preserved and allow claimant's agents or a property owners' association to make a claim. It would provide stock language that a claimant could use to make, cancel, or end a claim.

Additionally, the bill would expand exemptions from the Act's requirements for certain infrastructure, preserving interests filed or recorded in accordance with the Drain Code, for example. The bill also would expand prohibitions against the Act's use to bar or extinguish certain rights, prohibiting the Act from enabling unlawful restrictions based on demographic information, infringing upon the rights of life estate or trust beneficiaries, or canceling interests that met previous requirements.

Lastly, the bill would modify recording requirements for claimants and for county registers of deeds. Most significantly, it would exempt records recorded before March 28, 2019, from a requirement that they include including the liber (generally, a book of records) and page, or other unique identifying number assigned by the register, to be used to preserve a claim. Records recorded after March 28, 2019, that did not include this information would be considered ineffective.

## **PREVIOUS LEGISLATION**

The bill is similar to House Bill 4987 of the 2023-2024 Legislative Session and to House Bill 6332 of the 2019-2020 Legislative Session.

## **FISCAL IMPACT**

The bill would not have a fiscal impact on the State; however, it would have an insignificant cost to local units of government in terms of administrative costs.

MCL 565.101 et al.

Legislative Analyst: Nathan Leaman  
Fiscal Analyst: Bobby Canell

## **CONTENT**

**The bill would amend Public Act (PA) 200 of 1945, which defines a marketable record title to an interest in land, to do the following:**

- Modify the criteria used to evidence an unbroken chain of title.**
- Subject an unbroken chain of title to interests preserved between September 29 2025, and two years after the bill's effective date and to the Act's exceptions.**
- Extend, from September 29, 2025, to two years after the bill's effective date, the date by which an interest, claim, or charge in a marketable title could be preserved and kept effective by filing a notice.**
- Modify the information required to be included on a notice of claim.**
- Allow a person acting on behalf of a claimant as an agent or as authorized in writing and a property owners' association to file notice of a claim.**
- Provide a form that could be used to record a notice of claim.**
- Modify the criteria under which a notice of claim would be deemed effective.**
- Prescribe a statement that a person could use to end or cancel a claim of interest.**
- Expand certain exceptions to the Act to include additional recorded instruments and specified infrastructure.**
- Prohibit the Act from being used for certain purposes, including those that would infringe on individual rights.**

### Marketable Record Titles; Generally

Generally, a marketable record title is a title that is free and clear of all interests, claims, and charges. To obtain a marketable record title, an individual, corporation, or other entity legally allowed to own land must demonstrate an unbroken chain of title over the previous 40 years or, for a mineral interest, 20 years. When the Act was implemented in 1945, it provided that a person that could demonstrate an unbroken chain of title for the applicable period *at that time* was eligible for a marketable record title, and that any existing interest, claim, or charge was void. The Act was later amended to allow individuals or entities with an existing interest, claim, or charge against a property to preserve their claim by filing for record a notice in writing, verified by oath, setting forth the nature of the claim.

The Act requires a person to evidence an unbroken chain of title using official public records held by the register of deeds of the county in which the land is located. Generally, these records are referred to as recorded instruments, which are legal documents, other than a lease, mortgage, or lien, affecting or related to real property. The term may include a deed, covenant, or easement, for example. Statute requires a register of deeds to note upon every instrument certain information, including the liber and page, or other unique identifying number, where it was recorded.<sup>1</sup> The failure to include the liber and page or other unique identifier renders the recording ineffective and the claim unpreserved. The bill would remove this provision, allowing records recorded prior to March 28, 2019, to be used if they did not include this information (see Claim Preservation; Ending a Claim).

The Act allows an unbroken chain of title to be evidenced if records disclose that a property conveyance or other title transaction had occurred at least 20 years in the past for mineral interests or at least 40 years for other interests, with nothing appearing on record to divest an interest in the property. A property conveyance or other title transaction can be shown to divest an interest in property only if it creates the divestment or 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. The bill would only require

---

<sup>1</sup> MCL 565.27

the latter information for property conveyance or other title transactions recorded *after* March 28, 2019. Additionally, under the bill, a property conveyance or other title transaction *would* be shown to divest an interest if it *purported* to create the divestment, regardless of the date of record.

The bill also would specify that, if a person were determined to have an unbroken chain of title to an interest in land, that interest would be subject to the following:

- Interests preserved between September 29, 2025, and the date two years after the bill's effective date.
- Interests excepted under the Act, including interests filed or recorded in accordance with the Drain Code or its predecessor.

The bill would specify that unless an interest was excepted as provided by the Act (see Marketable Record Titles; Exceptions) an interest, claim, or charge that became void and of no effect before March 29, 2019, or that expired or terminated based on its own terms would not be effective or preserved by recording a notice of claim.

The bill would define "person" as follows: an individual, corporation, limited liability company, partnership, firm, organization, governmental entity, trust, trustee, other legal entity, or a property owners' association. Therefore, the Act would grant the ability to hold a marketable record title and to preserve interest to a property owners' association.

"Property owners' association" would mean a person or an unincorporated association with a voting membership that is made up of owners of land or the owners' agents, or a combination of the owners of land and the owners' agents, that is either responsible for the operation or management of land or authorized to enforce a document recorded with the office of the register of deeds of the county in which the land is located that subjects the land to any use or other restriction or obligation. The term also would mean an association of co-owners as that term is defined in the Condominium Act: the person designated in the condominium documents to administer the condominium project.

#### Claim Preservation; Timeline

Currently, existing claims may be preserved until September 29, 2025. The bill would extend the sunset on preservation to two years after the bill's effective date.

#### Claim Preservation; Process

The bill also would modify the process through which a claim against a property could be preserved. Currently, the *claimant* must file for record. The bill would extend this ability to file to a person acting on behalf of a claimant as an agent or as authorized in writing and a property owners' association. The bill also would specify that the recording of a notice of claim by a claimant for the purposes of preservation would serve as an effective notice for all other persons whose rights originated from the same instrument as the claimant's.

Under the bill, "claimant" would mean a person that holds an interest, claim, or charge on land and records a notice of claim under the Act with the office of the register of deeds of the county in which land is located.

Generally, the Act requires a notice to contain an accurate and full description of all the land affected by the notice. A notice also must include additional information, such as the claimant's name and address, the interest claimed to be preserved, and more. The bill would require a claimant to include the name and mailing address of all *owners* of the land affected

by the notice of claim. For the purposes of this requirement, the bill would identify as owners of the land the person or persons in whose names the land was assessed on the last completed tax assessment roll of the county in which the land was located at the time of recording.

The bill would create a form that could be used to record a notice of claim. A claim filed using a substantially similar form also would satisfy the Act's requirements.

Currently, a register of deeds must enter the names of the claimants of all notices for the county in which the register of deeds serves under the grantee indexes of deeds (generally, an alphabetical list of persons who have purchased property). The bill would further require a register of deeds to enter the names of the *owners* of the land appearing in the notices under the grantor indexes (generally, an alphabetical list of persons who have sold property).

#### Claim Preservation; Ending a Claim

Under the bill, if a notice of an interest, claim, or charge were to state that the reference to the interest, claim, or charge was for the sole purpose of limiting the warranty in the instrument and did not create, preserve, or continue the interest, claim, or charge under the Act, the claim would be ineffective.

If a person did not want to create, preserve, or continue an interest, claim, or charge in the land, the person could include the following statement on the person's notice, or one substantially similar:

"The references to the exceptions to title by liber and page or other county-assigned unique identifying number in this instrument are for the sole purpose of limiting the warranty or covenant of title, as applicable, in this instrument and do not create, preserve, or continue the interest, claim, or charge under 1945 PA 200, MCL 565.101 to 565.108."

The bill would specify that a statement in an instrument recorded after March 28, 2019, that included a statement that an interest was conveyed "subject to easements and restrictions of record" or substantially similar language, without reference to any liber and page or other county-assigned unique identifying number, would *not* create, preserve, or continue any recorded easements or restrictions of record.

#### Marketable Record Titles; Exceptions

The Act provides for certain exceptions. For example, it specifies that certain easements (or interests in an easement) must be preserved even if a claimant has failed to file the required notice.<sup>2</sup> This includes easements used for any of the following purposes:

- 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, regardless of whether the existence of the facility is observable.
- Flowage rights for an impoundment that exists as part of a Federally licensed hydroelectric facility.
- The management of vegetation within the easement.

---

<sup>2</sup> Generally, an easement is a type of property right that allows an individual, business, or entity to use part of another person's property without transferring ownership. For example, a power company may use an easement to erect powerlines on a private residence.

The bill would extend these exceptions to include easements used for the installation or repair of certain infrastructure, which, under the bill, would include driveways, trailways, drains, substations, electric generation facilities, energy storage facilities or other energy facilities, stormwater or drainage facilities, and utility facilities.

#### Marketable Record Titles; Restrictions

The Act provides that it cannot be used for certain purposes. For example, the Act cannot be used to bar or extinguish land or resource use restrictions, including an environmental restrictive covenant or other recorded instrument that specifically cites the State or Federal environmental statute as the basis of its restriction. The bill would modify this prohibition to include a restrictive covenant or other recorded instrument that restricted the use of property for the protection of health or safety from the environmental condition of the property.

The bill also would prohibit the Act from being used for any of the following purposes:

- To bar or extinguish any interest created by any instrument or agreement executed and recorded on or after January 1, 1950, that subjected the land to any use or other restriction or obligation, burden, or benefit with respect to each lot or other parcel of land that was the subject of the instrument or agreement.
- To bar or extinguish any interest created by or any recorded amendments to a recorded master deed for a condominium.
- To bar or extinguish the rights of any beneficiary on the expiration of any life estate or trust.
- To create, preserve, or continue any unlawful restrictions based on race, color, religion, sex, handicap, familial status, or national origin.

The Act specifies that it does not affect any right, title, or interest in land owned by the United States or Michigan or any department or commission of Michigan. The bill would extend this provision to include land *held* by those entities, and it also would extend the provision to other subsidiaries of the State, including any State agency, authority, lake level assessment district, or drainage district.

### **BACKGROUND**

#### Marketable Titles

Generally, a person who possesses a property's title has the legal right to use or modify a property. By tracking all interests, claims, and charges over the past 40 years and establishing an unbroken chain of title, a person can ensure that the person's property will be unencumbered by any unwanted financial obligations and that ownership of that property will be undisputed. In many cases, before a lender (like a bank, credit union, or mortgage bank) will give a mortgage loan to a buyer, they require proof that the buyer will receive a marketable title to the property. The work of establishing an unbroken chain of title for a property is generally performed by a title company.

#### Title Companies & Title Insurance

A title company is a third-party that works on behalf of the lender and the buyer during a real estate transaction. Generally, title companies accomplish two tasks: 1) researching if the individuals buying and lending a property have established an unbroken chain of title (record of ownership) through a title search; and 2) insuring the lender and the buyer in cases in

which title defects are detected.<sup>3</sup> Examples of title defects include liens on a property, a mortgage or property tax not being paid by a prior owner, or an unknown or missing heir making claim to the property.

An unbroken chain of title in Michigan is 40 years old, so title companies conduct a title search on a property's chain of title from 1985 to the present day. If a property's chain of title is unbroken, the transaction continues and the property's title is marketable; however, if title defects are detected, the title company will warn the lender and buyer and either cure the defect, stop the transaction before the buyer closes on the mortgage, or exclude those defects from coverage.

The possibility that a title company could make a mistake compels lenders and buyers to purchase title insurance. Title insurance insures the lender and the buyer in cases where the title company made an error in the title search and a title defect should have been detected. In those cases, the lender and buyer are legally and financially protected so long as the title defect is covered by the title insurance. Generally, during real estate transactions, the seller of a property pays for the buyer's policy and the buyer pays for the lender's policy. In addition, title insurance generally requires only a single payment when the buyer closes on a property. Once that payment has been made, the buyer is protected for as long as the buyer owns interest in the property and the lender is protected until the mortgage is paid in full and the lender's interest in the property is concluded.

---

<sup>3</sup> Department of Insurance and Financial Services, "*Consumer Counselor: Title Insurance*", 2018.

SAS\S2526\sa4524sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.