

**SUBSTITUTE FOR
HOUSE BILL NO. 4524**

A bill to amend 1945 PA 200, entitled

"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,"

by amending the title and sections 1, 1a, 2, 3, 4, 5, 6, and 8 (MCL 565.101, 565.101a, 565.102, 565.103, 565.104, 565.105, 565.106, and 565.108), sections 1 and 3 as amended by 2024 PA 20, section 1a as added and section 6 as amended by 1997 PA 154, sections 2 and 5 as amended by 2018 PA 572, and section 4 as amended by 2022 PA 235,

and by adding section 5a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to define a marketable record title to an interest in land; to require the ~~filing~~**recording** 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~~**if** no ~~such~~ notices of claim of interest are ~~filed~~**recorded** within the required period **and to provide certain exceptions; and** to provide for certain penalties for ~~filing~~**recording** slanderous notices of claim of interest. ~~, and to provide certain exceptions to the applicability and operation thereof.~~

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 **or preserved and kept effective by recording under section 3 not later than 2 years after the effective date of the amendatory act that added section 5a.** However, a person is not considered to have a marketable record title under this act if the land in which the

1 interest exists is in the hostile possession of another.

2 Sec. 1a. As used in this act: ~~"mineral interest"~~

3 (a) "Claimant" means a person that holds an interest, claim,
4 or charge on land and records a notice of claim under section 3
5 with the office of the register of deeds of the county in which
6 that land is located.

7 (b) "Mineral interest" means an interest in minerals in any
8 land if the interest in minerals is owned by a person other than
9 the owner of the surface of the land. Mineral interest does not
10 include an interest in oil or gas or an interest in sand, gravel,
11 limestone, clay, or marl.

12 (c) "Person" means an individual, corporation, limited
13 liability company, partnership, firm, organization, governmental
14 entity, trust, trustee, or other legal entity. Person includes a
15 property owners' association.

16 (d) "Property owners' association" means any of the following:

17 (i) A person or an unincorporated association with a voting
18 membership that is made up of owners of land or the owners' agents,
19 or a combination of the owners of land and the owners' agents, that
20 is either of the following:

21 (A) Responsible for the operation or management of land.

22 (B) Authorized to enforce a document recorded with the office
23 of the register of deeds of the county in which the land is located
24 that subjects the land to any use or other restriction or
25 obligation.

26 (ii) An association of co-owners as that term is defined in
27 section 3 of the condominium act, 1978 PA 59, MCL 559.103.

28 Sec. 2. (1) A person is considered to have an unbroken chain
29 of title to an interest in land as provided in section 1 if the

~~official public records disclose~~ **office of the register of deeds of the county in which the land is located discloses** 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, **except as otherwise provided under section 3 for interests that may be preserved and kept effective by recording not later than 2 years after the effective date of the amendatory act that added section 5a**, 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, **except as otherwise provided under section 3 for interests that may be preserved and kept effective by recording not later than 2 years after the effective date of the amendatory act that added section 5a**, 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) If a person is considered to have an unbroken chain of title to an interest in land under this section, the interest in land is subject to all interests preserved under section 3 or excepted under section 4, including interests filed or recorded in accordance with the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, or its predecessor.

(3) ~~(2)~~ For purposes of this section, **unless preserved under section 3 or excepted under section 4** and except as to mineral interests, a conveyance or other title transaction in the chain of title purports to divest an interest in the ~~property~~ **land** only if it ~~creates~~ **does either of the following:**

(a) **Purports to create** the divestment. ~~or if it~~

(b) **If recorded after March 28, 2019, and except as otherwise provided in section 5a(1)**, specifically refers by liber and page or other county-assigned unique identifying number to a previously recorded conveyance or other title transaction that ~~created~~ **purported to create** the divestment.

Sec. 3. (1) ~~Marketable~~ **Except as otherwise provided in section 4, marketable record** 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~~ **recording not later than 2 years after the effective date of the amendatory act that added section 5a** or during the 20-year period for mineral interests ~~and or 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~~ **of claim that satisfies the requirements of section 5. However, unless the interest is excepted under section 4, an interest, claim, or charge that became void and of no effect under this subsection before March 29, 2019 or that expires**

1 or terminates based on its own terms is not effective and is not
 2 preserved by recording a notice of claim under this subsection.

3 (2) A disability or lack of knowledge of any kind on the part
 4 of anyone does not suspend the running of the 20-year period for
 5 mineral interests or the 40-year period for other interests.

6 (3) For the purpose of recording notices of claim for
 7 homestead interests, the date from which the 20-year period for
 8 mineral interests and the 40-year period for other interests run is
 9 the date of recording of the instrument that contains the basis for
 10 the claim.

11 (4) A notice under this section may be ~~filed for record~~
 12 **recorded** by ~~the~~ **any of the following:**

13 (a) **The claimant.** ~~or by any~~

14 (b) **Any other person acting on behalf of a claimant as an**
 15 **agent or as authorized in writing.**

16 (c) **A property owners' association.**

17 (d) **Any other person acting on behalf of any claimant if 1 or**
 18 **more of the following conditions exist:**

19 (i) ~~(a)~~ The claimant is under a disability.

20 (ii) ~~(b)~~ The claimant is unable to assert a claim on the
 21 claimant's own behalf.

22 (iii) ~~(c)~~ The claimant is 1 of a class but whose identity cannot
 23 be established or is uncertain at the time of ~~filing~~ **recording** the
 24 notice of claim. ~~for record.~~

25 (5) **The recording of a notice of claim under this section by a**
 26 **claimant that meets all the requirements of this act to preserve**
 27 **the claimant's rights in the land is an effective notice under this**
 28 **section for all other persons whose rights originate from the same**
 29 **instrument as the claimant's.**

1 Sec. 4. (1) This act must not be applied to do any of the
2 following:

3 (a) Bar a lessor or a lessor's successor as reversioner of the
4 lessor's right to possession on the expiration of a lease or a
5 lessee or the lessee's successor of the lessee's rights in and to a
6 lease.

7 (b) Bar any interest of a mortgagor or a mortgagee or interest
8 in the nature of that of a mortgagor or mortgagee until after the
9 instrument under which the interest is claimed has become due and
10 payable, except if the instrument has no due date expressed, or if
11 the instrument has been executed by a railroad, railroad bridge,
12 tunnel, union depot company, or public utility or public service
13 company.

14 (c) Bar or extinguish an easement or interest in the nature of
15 an easement, the existence of which is clearly observable. ~~by~~
16 ~~physical evidences of its use.~~

17 (d) Bar or extinguish an easement or interest in the nature of
18 an easement, or any rights appurtenant to the easement or interest
19 granted, excepted, or reserved by a recorded instrument creating
20 the easement or interest, including any rights for future use, due
21 to a failure to ~~file~~**record** the notice required under this act, if
22 the easement, observable or not, is for any of the following:

23 (i) The operation, **installation**, construction, maintenance,
24 improvement, **repair**, removal, replacement, or protection of a pipe,
25 **driveway**, **trailway**, valve, road, wire, cable, conduit, duct, sewer,
26 **drain**, track, **substation**, pole, tower, or **electric generation**
27 **facility, energy storage facility or other energy facility,**
28 **stormwater or drainage facility, utility facility, or any** other
29 physical facility, whether or not the existence of the facility is

1 observable.

2 (ii) Flowage rights for an impoundment that exists as part of a
3 federally licensed hydroelectric facility.

4 (iii) The management of vegetation within the easement.

5 (e) Bar or extinguish any **of the following** land or resource
6 use ~~restriction, including any of the following:~~**restrictions:**

7 (i) ~~An environmental~~**A** restrictive covenant or other recorded
8 instrument ~~if that restricts the use of property for the protection~~
9 **of health or safety from the environmental condition of the**
10 **property, including, but not limited to, a** restrictive covenant or
11 other recorded instrument **that** specifically cites the state or
12 federal environmental statute that is the basis for the
13 restriction, including any of the following:

14 (A) The natural resources and environmental protection act,
15 1994 PA 451, MCL 324.101 to 324.90106.

16 (B) The resource conservation and recovery act of 1976, Public
17 Law 94-580.

18 (C) The comprehensive environmental response, compensation,
19 and liability act of 1980, 42 USC Chapter 103.

20 (ii) A conservation easement as that term is defined in section
21 2140 of the natural resources and environmental protection act,
22 1994 PA 451, MCL 324.2140.

23 (iii) Any environmental land or resource use restriction
24 recorded by a public utility as that term is defined in section 1
25 of 1929 PA 69, MCL 460.501, or by an independent transmission
26 company as that term is defined in section 2 of the electric
27 transmission line certification act, 1995 PA 30, MCL 460.562, on
28 real property in which the public utility or independent
29 transmission company had an interest when recorded.

1 (f) Bar or extinguish the rights of any remainderman on the
2 expiration of any life estate or trust.

3 (g) Bar or extinguish any interest created by any declaration
4 or other instrument or agreement executed and recorded on or after
5 January 1, 1950, as the declaration or other instrument or
6 agreement may be amended, that subjects the land to any use or
7 other restriction or obligation, burden, or benefit with respect to
8 each lot or other parcel of land that is the subject of the
9 declaration or other instrument or agreement.

10 (h) Bar or extinguish any interest created by a recorded
11 master deed for a condominium or any recorded amendments to a
12 recorded master deed for a condominium.

13 (i) Create, preserve, or continue any unlawful restrictions
14 based on race, color, religion, sex, handicap, familial status, or
15 national origin.

16 (2) This act does not affect any right, title, or interest in
17 land owned **or held** by the United States, this state, or any
18 department, commission, **agency, authority, lake level assessment**
19 **district, drainage district,** or **other** political subdivision of this
20 state.

21 (3) This act does not affect any oil and gas lease, or other
22 interest in oil or gas, owned by a person other than the owner of
23 the surface, or any storage agreement or other interest in
24 subsurface storage formations owned by a person other than the
25 owner of the surface.

26 Sec. 5. (1) To be effective and to be entitled to record, a
27 notice of claim under section 3 must contain an accurate and full
28 description of all the land affected by the notice ~~, which~~ **and the**
29 description must be set forth in particular terms and not by

1 general inclusions. ~~However, except as to mineral interests, if the~~
 2 ~~claim is founded on a recorded instrument, the notice must also~~
 3 ~~state the liber and page or other county-assigned unique~~
 4 ~~identifying number of the recorded instrument the claim is founded~~
 5 ~~on. The failure to include the liber and page or other county-~~
 6 ~~assigned unique identifying number renders the recording~~
 7 ~~ineffective and the claim unpreserved.~~ The notice **of claim** must
 8 contain all of the following:

9 (a) The claimant's name.

10 (b) The claimant's mailing address.

11 (c) The interest claimed to be preserved.

12 (d) Except as to mineral interests, the liber and page or
 13 other unique identification number ~~of the~~ **assigned by the office of**
 14 **the register of deeds for the recorded** instrument creating the
 15 interest to be preserved.

16 (e) The legal description of the ~~real property~~ **land** affected
 17 by the claimed interest.

18 (f) The claimant's signature.

19 (g) An acknowledgment in the form required by ~~the uniform~~
 20 ~~recognition of acknowledgments act, 1969 PA 57, MCL 565.261 to~~
 21 ~~565.270, and section 27 of the Michigan notary public act, law on~~
 22 **notarial acts, 2003 PA 238, MCL 55.287. MCL 55.261 to 55.315.**

23 (h) The drafter's name and address.

24 (i) An address to which the document can be returned.

25 (j) **The name and mailing address of all the owners of the land**
 26 **that is claimed to be affected by the notice of claim. For purposes**
 27 **of this subdivision, the names and mailing addresses of persons in**
 28 **whose names the land is assessed on the last completed tax**
 29 **assessment roll of the county in which the land is located at the**

time of recording are the owners of the land.

(2) The following form may be used and is sufficient to record a notice of claim under section 3, although this subsection does not preclude the use of a form that is substantially similar and meets the requirements of this section:

NOTICE

Claimant: _____

Whose address is _____

hereby claims the following described interest: _____

which was originally created by _____, recorded in

liber _____, on page _____, _____ county records, and

affects land located in the _____ of _____,

County of _____, state of Michigan, and more fully

described as:

Commonly known as: _____

Tax Item No. _____

The owner(s) of land affected by this notice, for purposes of MCL 565.105(1)(j), is/are:

whose address(es) is/are: _____

_____ <<Claimant>>

STATE OF _____)

_____) SS.

1 COUNTY OF _____)

2 This instrument was acknowledged before me on ___20___, by

3 <<Claimant>>

4 _____
 5 _____, Notary Public
 6 _____ County, Michigan

7 My Commission expires: _____

8 Acting in _____ County, Michigan

9 Drafted by: _____ Return to:

10 _____
 11 _____
 12 _____

13 (3) ~~(2)~~—A notice of claim under section 3 must be ~~filed for~~
 14 ~~record~~ **recorded** in the register of deeds office of the county or
 15 counties where the land described in the notice is located. The
 16 register of deeds of each county shall accept all notices of claim
 17 under section 3 that are presented to the register of deeds that
 18 describe land located in the county in which the register of deeds
 19 serves and shall enter and record full copies of the notices in the
 20 same way that deeds and other instruments are recorded.

21 (4) ~~(3)~~—A register of deeds is entitled to charge the same
 22 fees for the recording of a notice under section 3 as are charged
 23 for recording deeds. In indexing notices under section 3, a
 24 register of deeds shall enter the notices under the grantee indexes
 25 of deeds under the names of the claimants **appearing in the notices,**
 26 **and the grantor indexes under the names of the owners of the land**
 27 appearing in the notices.

28 Sec. 5a. (1) An instrument that conveys land or warrants title
 29 to land subject to an interest, claim, or charge or an instrument

1 that encumbers land or warrants title to land subject to an
2 interest, claim, or charge is not an effective notice of claim of
3 an interest, claim, or charge for purposes of section 2 or 3 if the
4 instrument states that the reference to the interest, claim, or
5 charge is for the sole purpose of limiting the warranty in the
6 instrument and does not create, preserve, or continue the interest,
7 claim, or charge under this act. The inclusion of the following
8 statement in the instrument is sufficient to preclude the creation,
9 preservation, or continuation of an interest, claim, or charge in
10 the land, although this subsection does not preclude the use of a
11 statement that is substantially similar to the statement under this
12 section:

13 "The references to the exceptions to title by liber and page
14 or other county-assigned unique identifying number in this
15 instrument are for the sole purpose of limiting the warranty or
16 covenant of title, as applicable, in this instrument and do not
17 create, preserve, or continue the interest, claim, or charge under
18 1945 PA 200, MCL 565.101 to 565.108.".

19 (2) A statement in an instrument recorded after March 28,
20 2019, with the office of the register of deeds of the county in
21 which the land is located that includes a statement that an
22 interest is conveyed "subject to easements and restrictions of
23 record" or substantially similar language, without reference to any
24 liber and page or other county-assigned unique identifying number,
25 is not effective to create, preserve, or continue any recorded
26 easements or restrictions of record for purposes of section 2 or 3.

27 Sec. 6. This act ~~shall~~**must** be construed to effect the
28 legislative purpose of simplifying and facilitating land title
29 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~~ **before** the date of such dealing and to that ~~end~~ **purpose**, to extinguish all claims that affect or may affect the interest dealt with, **subject to the exception under section 3 for interests that may be preserved and kept effective by recording not later than 2 years after the effective date of the amendatory act that added section 5a or the exceptions under section 4**, the existence of which claims arises out of or depends ~~upon~~ **on** 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.~~ **recorded, or a notice of claim as provided in section 3 has been recorded not later than 2 years after the effective date of the amendatory act that added section 5a for interests that may be preserved and kept effective by recording under section 3, or the interest is excepted under section 4.** 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~~ **this** state, and whether the person is natural or corporate, or private or governmental.

Sec. 8. ~~No~~ **A** person shall **not** use the privilege of ~~filing~~ **recording** notices ~~hereunder~~ **under this act** for the purpose of slandering the title to land. ~~, and in~~ **In** any action brought for the purpose of quieting title to land, if the court ~~shall find~~ **finds** that any person has filed a claim ~~for that reason only, he~~

1 **solely for the purpose of slandering the title to land, the court**
2 shall award the plaintiff all the costs of ~~such-the~~ action,
3 including ~~such~~-attorney fees as the court may allow, ~~to-the~~
4 ~~plaintiff,~~ and in addition, **the court** shall ~~decree that-order~~ the
5 defendant asserting ~~such-the~~ claim ~~shall-to~~ pay to **the** plaintiff
6 all damages that **the** plaintiff may have sustained as the result of
7 ~~such-the recording of the~~ notice of claim. ~~having been so filed for~~
8 ~~record.~~