

## MARKETABLE RECORD TITLE Act 200 of 1945

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.

**History:** 1945, Act 200, Eff. Sept. 6, 1945.

*The People of the State of Michigan enact:*

### **565.101 Marketable record title.**

Sec. 1. Any person, having the legal capacity to own land in this state, who 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, shall at the end of the applicable period be considered to have a marketable record title to that interest, subject only to claims to that interest and defects of title as are not extinguished or barred by application of this act and subject also to any interests and defects as are inherent in the provisions and limitations contained in the muniments of which the chain of record title is formed and which have been recorded within 3 years after the effective date of the amendatory act that added section 1a or during the 20-year period for mineral interests and the 40-year period for other interests. However, a person shall not be considered to have a marketable record title by reason of this act, if the land in which the interest exists is in the hostile possession of another.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—CL 1948, 565.101;—Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997.

### **565.101a “Mineral interest” defined.**

Sec. 1a. As used in this act, “mineral interest” means an interest in minerals in any land if the interest in minerals is owned by a person other than the owner of the surface of the land. Mineral interest does not include an interest in oil or gas or an interest in sand, gravel, limestone, clay, or marl.

**History:** Add. 1997, Act 154, Imd. Eff. Dec. 22, 1997.

### **565.102 Unbroken chain of title to interest in land; conditions.**

Sec. 2. A person is considered to have an unbroken chain of title to an interest in land as provided in section 1 when the official public records disclose 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, 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, 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.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—CL 1948, 565.102;—Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997.

### **565.103 Marketable record title; successors in interest; notice of claims; filing for record.**

Sec. 3. Marketable title shall be held by a person and shall be taken by his or her successors in interest free and clear of any and all interests, claims, and charges whatsoever the existence of which depends in whole or in part upon any act, transaction, event, or omission that occurred prior to the 20-year period for mineral interests, and the 40-year period for other interests, and all interests, claims, and charges are hereby declared to be null and 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 within 3 years after the effective date of the amendatory act that added section 1a or during the 20-year period for mineral interests and the 40-year period for other interests, a notice in writing, verified by oath, setting forth the nature of the claim. A disability or lack of knowledge of any kind on the part of anyone does not suspend the running of the 20-year period for mineral interests or the 40-year period for other interests. For the purpose of recording notices of claim for homestead interests the date from which the 20-year period for mineral interests and the 40-year period for other interests shall run shall be the date of recording of the instrument, nonjoinder, in which is the basis for the claim. A notice may be filed for record by the claimant or by any other person acting on behalf of any claimant if 1 or

more of the following conditions exist:

- (a) The claimant is under a disability.
- (b) The claimant is unable to assert a claim on his or her own behalf.
- (c) The claimant is 1 of a class but whose identity cannot be established or is uncertain at the time of filing the notice of claim for record.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—CL 1948, 565.103;—Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997.

#### **565.104 Marketable record title; failure to file notice not to bar right to possession.**

Sec. 4. This act shall not be applied to bar any lessor or his successor as reversioner of his right to possession on the expiration of any lease or any lessee or his successor of his rights in and to any lease; or to bar any interest of a mortgagor or a mortgagee or interest in the nature of that of a mortgagor or mortgagee until after such instrument under which such interests are claimed shall have become due and payable, except where such instrument has no due date expressed, where such instrument has been executed by a railroad, railroad bridge, tunnel or union depot company, or any public utility or public service company; or to bar or extinguish any easement or interest in the nature of an easement, the existence of which is clearly observable by physical evidences of its use; or to bar or extinguish any easement or interest in the nature of an easement, or any rights appurtenant thereto granted, excepted or reserved by a recorded instrument creating such easement or interest, including any rights for future use, if the existence of such easement or interest is evidenced by the location beneath, upon or above any part of the land described in such instrument of any pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole, tower, or other physical facility and whether or not the existence of such facility is observable, by reason of failure to file the notice herein required. Nor shall this act be deemed to affect any right, title or interest in land owned by the United States, nor any right, title or interest in any land owned by the state of Michigan, or by any department, commission or political subdivision thereof.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—Am. 1946, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 26, 1946;—Am. 1947, Act 117, Imd. Eff. May 22, 1947;—CL 1948, 565.104;—Am. 1951, Act 235, Eff. Sept. 28, 1951;—Am. 1965, Act 323, Eff. Mar. 31, 1966.

#### **565.105 Notice of claim to contain land description; recording, fees, indexing.**

Sec. 5. To be effective and to be entitled to record the notice above referred to shall contain an accurate and full description of all the land affected by such notice which description shall be set forth in particular terms and not by general inclusions, but if said claim is founded upon a recorded instrument then the description in such notice may be the same as that contained in such recorded instrument. Such notice shall be filed for record in the register of deeds office of the county or counties where the land described therein is situated. The register of deeds of each county shall accept all such notices presented to him which describe land located in the county in which he serves and shall enter and record full copies thereof in the same way that deeds and other instruments are recorded and each register shall be entitled to charge the same fees for the recording thereof as are charged for recording deeds. In indexing such notices in his office each register shall enter such notices under the grantee indexes of deeds under the names of the claimants appearing in such notices.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—Am. 1947, Act 117, Imd. Eff. May 22, 1947;—CL 1948, 565.105.

#### **565.106 Construction of act; purpose; extinguishment of claim.**

Sec. 6. This act shall be construed to effect the legislative purpose of simplifying and facilitating land title 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 the date of such dealing and to that end to extinguish all claims that affect or may affect the interest dealt with, the existence of which claims arises out of or depends upon 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. 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 state, and whether the person is natural or corporate, or private or governmental.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—CL 1948, 565.106;—Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997.

#### **565.107 Limitations of actions.**

Sec. 7. Nothing contained in this act shall be construed to extend the periods for the bringing of an action or for the doing of any other required act under any existing statutes of limitation nor to affect the operation of

any existing acts governing the effect of the recording or of the failure to record any instruments affecting land nor to affect the operation of Act No. 216 of the Public Acts of 1929 nor of Act No. 58 of the Public Acts of 1917 as amended by Act No. 105 of the Public Acts of 1939.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—CL 1948, 565.107.

**Compiler's note:** For provisions of Act 216 of 1929, Act 58 of 1917, and Act 105 of 1939, referred to in this section, see MCL 565.381 et seq., MCL 558.81 et seq., and MCL 558.91 et seq., respectively.

#### **565.108 Filing slanderous notices of claims; costs awarded to plaintiff.**

Sec. 8. No person shall use the privilege of filing notices hereunder for the purpose of slandering the title to land, and in any action brought for the purpose of quieting title to land, if the court shall find that any person has filed a claim for that reason only, he shall award the plaintiff all the costs of such action, including such attorney fees as the court may allow to the plaintiff, and in addition, shall decree that the defendant asserting such claim shall pay to plaintiff all damages that plaintiff may have sustained as the result of such notice of claim having been so filed for record.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—CL 1948, 565.108.

#### **565.109 Claims not barred; time for filing notice of claim.**

Sec. 9. No interest, claim or charge shall be barred by the provisions of section 3 of this act until February 1, 1948, and any interest, claim or charge that would otherwise be barred by said section 3 may be preserved and kept effective by the filing of a notice of claim as required by this act prior to said first day of February, 1948.

**History:** 1945, Act 200, Eff. Sept. 6, 1945;—Am. 1946, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 26, 1946;—Am. 1947, Act 117, Imd. Eff. May 22, 1947;—CL 1948, 565.109.

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