

LOSS OR DESTRUCTION OF PUBLIC RECORDS

Act 52 of 1944 (1st Ex. Sess.)

AN ACT to provide for the establishment of and quieting the title to and the recreating of the public records of lands in counties where records of title have been destroyed in whole or in any material part by fire, flood or other major disaster, and to establish the procedure therefor and to provide an appropriation to pay certain costs thereof.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944.

The People of the State of Michigan enact:

561.1 Purpose of act; public records, recreating.

Sec. 1. The property rights of the state of Michigan, its political subdivisions and private interests are imperiled when the public records in the office of the register of deeds of any county have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by fire, flood or other disaster. It is the purpose of this act to provide a remedy to safeguard such property rights, and to foster the recreation of the public records.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.1.

561.2 Public records; loss or destruction; land titles; bill of complaint; order for appearance; hearing; property description.

Sec. 2. When the public records in the office of the register of deeds of any county have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by fire, flood or other disaster, the circuit court in chancery for any such county shall have jurisdiction and authority to hear and determine any suit instituted under the provisions of this act, and the rights of the several parties in said suit, and it shall be the duty of the prosecuting attorney of such county, when directed by the board of supervisors of such county, to file a bill in chancery on behalf of the people of the state of Michigan and of the county to determine and quiet title in and to the lands in such county, the defendants in which shall be described as "all persons having or claiming any interest in or lien upon the real property herein described, or any part thereof." The bill of complaint shall contain an allegation setting forth that all or a material part of the public records in the office of the register of deeds of the county have been lost or destroyed by fire, flood or other disaster and the property rights of the state of Michigan, its political subdivisions and private citizens have been imperiled thereby; and shall describe all real property in said county, affected by said loss. Real property in said county shall be sufficiently described by giving the name of the county and describing the territory included therein at the time of the destruction of the records by using the same descriptions set forth in the act or acts of the legislature organizing and assigning territory to such county, or the applicable parts thereof. The court shall have jurisdiction of all real property affected by the loss or destruction of the records of the register of deeds. In case the entire records of the office of the register of deeds are not lost or destroyed, the circuit court shall take judicial notice thereof.

Upon the filing of the bill of complaint the circuit court shall enter an order for appearance and fix a time and place for hearing. Said order shall be deemed sufficient for the purposes of this act, if the persons ordered to appear are described as: "All persons having or claiming any interest in or lien upon the property described in the bill of complaint including their unknown heirs, devisees, legatees and assigns, as the case may be," and setting out the same descriptions of real property as are contained in the bill of complaint. The court may direct that the order for appearance shall include additional descriptions by name or otherwise of territory within the county, including without describing the several pieces or parcels thereof, the several townships by name, and sections thereof by number, and the names of cities and villages and recorded plats and subdivisions outside of cities and villages: Provided, however, That the inclusion or exclusion of such additional descriptions shall not affect the jurisdiction of the court or the validity of any proceeding under this act or any order or decree made therein. Such order for appearance shall be published for 6 successive weeks at least once each week, in a newspaper published in the county where the real estate is located, if there be one; and if no newspaper be published in such county, then such order for appearance shall be published in a newspaper published in an adjacent county and, in every case within 30 days after the first publication of such order for appearance, a true copy shall be posted in a conspicuous place on the building in which the circuit court is sitting. The circuit judge may order such additional publications as the court shall deem necessary to give reasonable notice of the pendency of such suit. The court may order that printed copies of the order for appearance be furnished to the supervisor of each township for distribution to the residents thereof and may order that copies thereof be posted in conspicuous places on townhalls, school buildings, post offices and

other buildings where persons assemble and that copies be mailed to all persons within the county having a post office address therein, and to each person whose name on any township treasurer's assessment roll shows an address outside of said county.

After the expiration of 90 days from the date of said order and upon proof of the publication provided for in the foregoing paragraph, the court on the date set for hearing or on an adjourned date therefor and upon hearing and proof thereof, shall enter a decree which shall state that the records in the office of the register of deeds have been lost or destroyed, in whole or in any material part, by fire, flood or other disaster and shall authorize the filing of intervening petitions as provided in section 5 of this act, and the issuance of orders based on testimony introduced under sections 5 and 6 of this act determining the interest or title to particular parcels of land. The decree shall further provide that all persons entering appearance before the issuance of such decree shall be served personally or by registered mail by any petitioner in any proceedings hereafter instituted under section 5 of this act wherein such petitioner shall claim an interest in or lien upon the lands described in their appearance. Said decree shall further provide that all such appearances entered shall be recorded by the register of deeds and a reference to the book and page entered upon a map provided for in section 8 of this act. The court is authorized to issue such further orders as it shall deem necessary.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.2.

561.3 Public records; form.

Sec. 3. The order for appearance shall be substantially in the following form or in such other form as may be prescribed by order of the court:

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ...
IN CHANCERY

State of Michigan. In Re Petition to Establish and Quiet Title to Lands and Recreating Public Records Thereof Under Act of the Public Acts of 1944, First Extra Session.

In the name of the people of the State of Michigan. To all persons claiming any interest in or lien upon the real property herein described or any part thereof including their unknown heirs, devisees, legatees and assigns, as the case may be, greetings:

Take notice, that the record title to all of the lands in county is in question by reason of the loss or destruction of records in the office of the register of deeds thereof, and in consequence thereof on the day of A.D. 19...., a bill of complaint was filed in the circuit court for the county of in chancery, to establish and quiet title to the aforementioned lands, more particularly described as: (here insert a description of the real property in said county as contained in the bill of complaint and such additional descriptive language as may be ordered by the court). Now, unless you appear on or before the day of, 19...., in said court, (naming a return day at least 90 days from the date of said order of appearance) and show your interest in any part of said aforescribed real property, said bill of complaint shall be taken as confessed, and a decree entered pursuant to Act No. of the Public Acts of 1944 Extra Session. Your appearance in (here insert number of this act) this action shall be substantially in the following form or in such other form as may be prescribed by order of the court.

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF ...
IN CHANCERY

In Re Petition to Establish and Quiet Title to Lands and Recreating Public Records Thereof Under Act of the Public Acts of 1944, First Extra Session.

APPEARANCE

I..... residing at

(Name)

(Street

(Village, town or city)

or

R.F.D.)

County of....., State of

..... do hereby

enter my appearance and claim an interest in or lien upon the following described property to wit: ...

. . .
. . .

. . .

(Signature)

. . .

(Address)

... ..

(Here type or print name and address given above)

Subscribed and sworn to before me this.... day of....., A.D. 19 ...

(Name, title and address of party administering
oath including commission or term expiration)

It is further ordered that within 10 days a copy of this order be published in the
....., (a newspaper published in the county of) such publication
to be continued therein once in each week for 6 weeks in succession

... ..

(Circuit Judge)

Countersigned:

... ..

Clerk of Circuit Court

Any and all persons appearing hereunder shall state the address at which they can be served with process in any proceedings under this act, and shall file with the register of deeds of the county any change of address, which change shall be noted by the register of deeds on the margin of the recorded appearance.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.3.

561.4 Conveyance, paper or document; re-recording.

Sec. 4. Any conveyance or other paper or document pertaining to real estate, the public record of which has been lost or destroyed as aforesaid, may be re-recorded with the register of deeds, with like force and effect as the original recording and compliance with the provisions of section 135 of Act No. 206 of the Public Acts of 1893, as amended, shall not be required as a prerequisite to the recording thereof. An abstract of title certified or authenticated as may be provided by order of the court shall be prima facie evidence of the facts therein contained in all suits and proceedings under the provisions of this act.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.4.

Compiler's note: For provisions of section 135 of Act 206 of 1893, referred to in this section, see MCL 211.135.

561.5 Intervening petition to establish lien or interest; summons; service, form; file for re-recording.

Sec. 5. Any person having any interest in or lien upon any parcel or parcels of land covered by said bill of complaint may, at any time, intervene in said proceedings and petition the circuit court to establish his interest therein or lien thereon, and said circuit court shall have jurisdiction to hear and determine such interest or lien and determine the interest of all claims adverse thereto. Service of the summons issued under said intervening petition shall be made personally or by registered mail on any person or persons known to have an interest in any of the parcels of land described in said intervening petition, and service as to persons unknown shall be deemed to have been made by the general publication provided for in sections 2 and 3 of this act. The intervening petition shall be sworn to by the moving party, his agent or attorney, and shall state that the affiant does not know and has been unable after diligent search and inquiry to ascertain the names of the persons who are included as defendants therein without being named: Provided, however, That as to lands, the title to which heretofore or hereafter has vested in the state of Michigan by reason of tax reversion under the provisions of Act No. 206 of the Public Acts of 1893, no affidavit of search or inquiry as to parties in interest prior to the vesting of title in the state shall be required.

All persons, other than the intervening petitioner, in actual possession of land included within the claim under any intervening petition shall be served with a copy of the summons required under this section and if personal service cannot be obtained upon such persons, then a copy of the summons shall be posted in a conspicuous place on a building used for residence purposes on such land, if any, or if there is no residence building, then on some other building thereon.

The summons to be used under this act shall be substantially in the following form:

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF
IN CHANCERY

.....

Petitioner

VS.

(Here insert the names of all known person claiming any interest in the real property described in the petition and the following language: "and all other persons claiming any interest in or lien upon the real property herein described or any part thereof, and their unknown heirs, devisees, legatees and assigns, as the case may be")

Defendants

Petition filed.....

Date

In the name of the people of the State of Michigan, to (here insert names of all known holders of interest in the lands described in the petition and all the following language: "All other persons claiming any interest in, or lien upon, the real property herein described or any part thereof, and their unknown heirs, devisees, legatees and assigns"), defendants, greetings:

You are hereby required to appear and answer the intervening petition of

(Here insert name of petitioner)

plaintiff, filed with the clerk of the above entitled court and county, within 3 months after the date of filing noted above and to set forth what interest or lien, if any, you have in or upon that certain real property or any part thereof, situated in the township of, county of (or city and county), state of Michigan, particularly described as follows: (here insert description).

And you are hereby notified that, unless you so appear and answer, the plaintiff will apply to the court for the relief demanded in the intervening petition, to wit: (here insert a statement of the relief so demanded).

Issued under the seal of this court, at the of, the place of holding said court, this day of, 19.....

.....
Clerk

(SEAL)

.....
Deputy Clerk

One copy of each petition shall be filed with the register of deeds who shall make suitable entry thereof on the map provided for in section 8.

Any and all defendants appearing hereunder shall state the address at which they can be served with process in any proceedings under this act.

Petitioners hereunder shall be entitled to file for re-recording any conveyance or other instrument pertaining to the title of the particular parcel of land described in their petition and the same shall be re-recorded by the register of deeds without charge to the petitioner if filed within 1 year from the date of filing of the bill of complaint provided for in section 2. The court may order the determination of title to lands which are in dispute by proceedings under any other applicable statute.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.5;—Am. 1952, Act 146, Eff. Sept. 18, 1952.

561.6 Court determination of interest in, or title to, land not covered by decree or order.

Sec. 6. After 3 years from the entering of the decree provided for in section 2 of this act, and no petition having been filed under section 5 of this act with respect to any particular parcel of land which is or may be owned by the state or any agency or political subdivision thereof, the circuit court may, on its own motion or on motion of the prosecuting attorney, determine interests in or title to any parcel of land not covered by any decree or order of the court. It shall be the duty of the prosecuting attorney to furnish the court with such evidence as shall be available. The prosecuting attorney shall serve personally or by registered mail all parties in interest as shown by the public records.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.6.

561.7 Court jurisdiction.

Sec. 7. The circuit court in chancery shall have jurisdiction to determine interest or title to any parcel of land, whether the person entitled to such decree is in possession or not.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.7.

561.8 Decrees and orders; filing and recording.

Sec. 8. The original or a certified copy of all decrees and orders determining interest or title to any parcel of land shall be filed with and shall be recorded without charge by the register of deeds. Said register of deeds shall record the same in a separate book, kept for that purpose, and shall also enter on a map or plat, kept for that purpose, a reference to the book and page wherein is recorded such decree or decrees. The register of deeds shall also enter on the map a reference to the book and page of the recording of any conveyance or other instrument recorded subsequent to the destruction of the records which contain a description of any of the lands involved in any proceeding under this act.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.8.

561.9 Expenses; payment.

Sec. 9. The expenses and compensation of the prosecuting attorney, the county clerk and the register of deeds in carrying out the provisions of this act shall be paid from the general fund of the county: Provided, That in counties where the register of deeds is compensated by fees the court shall fix by order the compensation to be paid in lieu of fees to the register of deeds for the recording of conveyances, petitions, decrees and other instruments required by this act to be recorded without charge to the person filing for record. The compensation so allowed shall not exceed the total sum which, except for the provisions of this act, the said register would have received under other acts as fees for such recording.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.9.

561.10 No filing fee required.

Sec. 10. No fee shall be charged by the circuit court as a condition to the filing of a petition in any proceedings instituted under the provisions of this act.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.10.

561.11 Amending bill; additional publication.

Sec. 11. The circuit court may permit the amendment of the bill of complaint filed under the provisions of this act, in which case publication shall not be necessary unless the amendment involves the description of property: Provided, That additional publication shall be required only as to property described in the amendment and no such amendment shall operate to stay any proceedings as to property other than that described in the amendment.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.11.

561.12 Remedies cumulative.

Sec. 12. The remedies provided for by this act shall be deemed cumulative, and in addition to any other remedy now or hereafter provided by law for quieting or establishing title to real property.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.12.

561.13 Person; definition.

Sec. 13. The word "person" as used in this act shall include public and private corporations, copartnerships, unincorporated or voluntary associations as well as individuals.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.13.

561.15 State agencies; reproductions of deeds, conveyances, plats, or patents.

Sec. 15. A department or agency of this state shall supply to the register of deeds of a county described in section 2 on request a certified reproduction pursuant to the records media act of each deed, conveyance, plat, or patent in its possession relating to the title to land in the county and which, by order of the court, the register of deeds is required to rerecord. The court may order the register of deeds to obtain and rerecord such a reproduction, and the reproduction, when so rerecorded, has the same force and effect as the original record. The court may order the register of deeds to obtain and record a reproduction of a United States patent to land in the county.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.15;—Am. 1992, Act 184, Imd. Eff. Oct. 5, 1992.

561.16 Fireproof structure for storage of public records; requirement.

Sec. 16. The state administrative board, before releasing any appropriations to a county for expenses authorized or required under this act, may require that there be erected a suitable fireproof structure for the storage of public records, the plans for which have been approved by the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b.

History: 1944, 1st Ex. Sess., Act 52, Imd. Eff. Mar. 6, 1944;—CL 1948, 561.16;—Am. 2006, Act 205, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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