

RECORDING WAIVER OF PRIORITY OF MORTGAGE
Act 236 of 1929

AN ACT to provide for the recording of waivers of priority of mortgages, and to make such record thereof constructive notice to all persons dealing with mortgages, the lien of which has been waived and with the property described in said mortgage; also to provide for the fees for the recording thereof.

History: 1929, Act 236, Eff. Aug. 28, 1929.

The People of the State of Michigan enact:

***** 565.391 THIS SECTION IS AMENDED EFFECTIVE SEPTEMBER 18, 2018: See 565.391.amended *****

565.391 Waiver of mortgage priority; recording, fees.

Sec. 1. When any mortgagee named in any mortgage of property within this state, or the party or parties to whom such mortgage has been properly assigned of record, desire to waive the priority of said mortgage in favor of any other lien or mortgage, the holder thereof may in writing on said mortgage, or by separate instrument duly acknowledged and witnessed in the same manner as is provided for deeds and other instruments for the transfer of an interest in real estate, waive the priority of said mortgage in favor of any other mortgage or lien, to the extent of the lien of the mortgage so waived and such waiver when recorded whether upon the margin of the record, or as a separate instrument, shall be constructive notice thereof to all persons dealing with the mortgage, the lien of which has been so waived, or with property described in said mortgage, from the date of filing said waiver for record. If said waiver be a separate instrument, it shall be recorded in the same manner provided for the recording of discharges of mortgages, and the recorder shall be entitled to the same fees for recording waivers of priority as are charged for assignments and discharges of mortgages.

History: 1929, Act 236, Eff. Aug. 28, 1929;—CL 1929, 13360;—CL 1948, 565.391.

***** 565.391.amended THIS AMENDED SECTION IS EFFECTIVE SEPTEMBER 18, 2018 *****

565.391.amended Waiver of mortgage priority; recording; fees.

Sec. 1. The holder of a mortgage of property located in this state that is the mortgagee named in the mortgage or a person to whom the mortgage has been properly assigned of record may waive the priority of the mortgage in favor of another lien or mortgage by executing a separate instrument acknowledged in the same manner as required for deeds and other instruments for the transfer of an interest in real estate. The waiver is effective to the extent of the lien of the mortgage waived. Recording of the waiver is constructive notice of the waiver to all persons dealing with the mortgage or with property described in the mortgage from the date the waiver is recorded. A waiver recorded under this section must be recorded in the same manner as are discharges of mortgages, and the register of deeds is entitled to the same fee as is charged for recording a real estate mortgage under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567.

History: 1929, Act 236, Eff. Aug. 28, 1929;—CL 1929, 13360;—CL 1948, 565.391;—Am. 2018, Act 192, Eff. Sept. 18, 2018.