RECORDING AFFIDAVITS AFFECTING REAL PROPERTY
Act 123 of 1915

AN ACT to provide for the recording and use in evidence of affidavits affecting real property; and to provide a penalty for the making of false affidavits.

History: 1915, Act 123, Eff. Aug. 24, 1915;—Am. 1937, Act 190, Imd. Eff. July 14, 1937;—Am. 1965, Act 178, Imd. Eff. July 15, 1965.

The People of the State of Michigan enact:

565.451 Repealed. 1965, Act 178, Imd. Eff. July 15, 1965.

Compiler's note: The repealed section pertained to affidavits as to parties to instruments, recording, and perjury.

565.451a Affidavit stating facts relating to matters affecting realty; recording.

Sec. 1a. An affidavit stating facts relating to any of the following matters that may affect the title to real property in this state and made by any person having knowledge of the facts and competent to testify concerning those facts in open court may be recorded in the office of the register of deeds of the county where the real property is situated:

(a) Birth, age, sex, marital status, death, name, residence, identity, capacity, relationship, family history, heirship, homestead status and service in the armed forces of parties named in deeds, wills, mortgages and other instruments affecting real property.

(b) Knowledge of the happening of any condition or event that may terminate an estate or interest in real property.

(c) Knowledge of surveyors registered under the laws of this state with respect to the existence and location of monuments and physical boundaries, such as fences, streams, roads, and rights of way of real property.

(d) Knowledge of surveyors registered under the laws of this state reconciling conflicting and ambiguous descriptions in conveyances with descriptions in a regular chain of title.

(e) Knowledge of facts incident to possession or the actual, open, notorious, and adverse possession of real property.

(f) Knowledge of the purchaser, or if the purchaser is a corporation, of its president, vice president, secretary, or other authorized representative acting in a fiduciary or representative capacity, of real property sold upon foreclosure or conveyed in lieu of foreclosure of a trust mortgage or deed of trust securing an issue of bonds or other evidences of indebtedness, or of any mortgage, land contract, or other security instrument held by a fiduciary or other representative, as to the authority of the purchaser to purchase the real property and as to the terms and conditions upon which the real property is to be held and disposed of.

(g) Knowledge of a person with respect to an unrecorded mortgage if the affidavit recites the names of the parties to the unrecorded mortgage and is accompanied by a copy of the unrecorded mortgage. The affidavit shall be indexed as provided in section 28 of 1846 RS 65, MCL 565.28, under the name of the affiant. This subdivision applies to any affidavit regarding a mortgage within its scope, even if the affidavit was recorded before the effective date of the amendatory act that added this subdivision. However, an affidavit recorded on or after the effective date of the amendatory act that added this subdivision shall also be indexed under the names of the parties to the mortgage. Furthermore, a copy of an unrecorded mortgage and affidavit shall not be received and recorded by the register of deeds on or after the effective date of the amendatory act that added this subdivision unless the affidavit and the copy of the mortgage are legible and the affidavit states all of the following:

(*i*) The names of the mortgagor and mortgagee.

(*ii*) A legal description of the property, the property tax identification number, and, if applicable, the address of the property.

(*iii*) That the original mortgage has been lost or destroyed.

(*iv*) That the original mortgage was signed by the parties to the unrecorded mortgage.

(*v*) That, to the best of the affiant's knowledge, the original mortgage was delivered from the mortgagor to the mortgagee.

(*vi*) That the affiant did 1 of the following, as applicable:

(A) Mailed a copy of the affidavit and unrecorded mortgage by first-class certified or registered mail, return receipt requested, to the mortgagor at the mortgagor's address last known to the affiant. Actual delivery of that mail or the return of a signed return receipt is not required for the purposes of this sub-subparagraph.

(B) Personally served a copy of the affidavit and unrecorded mortgage on the mortgagor.

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History: Add. 1965, Act 178, Imd. Eff. July 15, 1965;—Am. 2014, Act 348, Imd. Eff. Oct. 17, 2014.

565.451b Affidavit stating facts relating to matters affecting realty; perjury.

Sec. 1b. Any person who knowingly makes any false statement in an affidavit is guilty of perjury.

History: Add. 1965, Act 178, Imd. Eff. July 15, 1965.

565.451c Affidavit stating fact relating to matters affecting realty; land description.

Sec. 1c. The affidavit shall include a description of the land, title to which may be affected by facts stated in the affidavit. If there appears in the regular chain of title of the land a deed, will, mortgage or other instrument affecting the title which contains a full and adequate description of the land, the description may be incorporated in the affidavit by reference to the record of the instrument in the register of deeds office in lieu of including the full description of the land.

History: Add. 1965, Act 178, Imd. Eff. July 15, 1965.

565.451d Correction of errors or omissions; affidavit.

Sec. 1d. (1) An affidavit to correct the following types of errors or omissions in previously recorded documents may be recorded in the office of register of deeds for the county where the real property that is the subject of the affidavit is located:

(a) Errors and omissions relating to the proper place of recording.

(b) Scrivener's errors and scrivener's omissions.

(2) All of the following apply to an affidavit under subsection (1):

(a) The affidavit shall be made by a person who has knowledge of the relevant facts and is competent to testify concerning those facts in open court and shall meet the requirements of section 1c.

(b) The affidavit does not alter the substantive rights of any party unless it is executed by that party.

(3) The county register of deeds shall index all names recited within an affidavit recorded under subsection (1).

(4) Subsection (1) does not prohibit the recording of a corrected version of the previously recorded document indicating the corrective changes and making reference to the previously recorded document by liber and page number or by another unique identifying number.

History: Add. 2012, Act 336, Imd. Eff. Oct. 16, 2012.

565.452 Affidavit; register duties; fee; social security number.

Sec. 2. (1) The register of deeds of the county where an affidavit described in this act is offered for record shall receive and record it in the manner that deeds are recorded. The register of deeds shall collect the same fee for recording the affidavit as is provided by law for recording deeds.

(2) Unless state or federal law, rule, regulation, or court order or rule requires that all or more than 4 sequential digits of the social security number appear in the affidavit, a register of deeds shall not receive an affidavit for recording unless the first 5 digits of any social security number appearing in or on the affidavit are obscured or removed.

History: 1915, Act 123, Eff. Aug. 24, 1915;—CL 1915, 11737;—CL 1929, 13365;—CL 1948, 565.452;—Am. 1965, Act 178, Imd. Eff. July 15, 1965;—Am. 2007, Act 54, Imd. Eff. Sept. 6, 2007.

565.453 Affidavit; use as evidence.

Sec. 3. The affidavit, whether recorded before or after the passage of this act, may be received in evidence in any civil cause, in any court of this state and by any board or officer of the state in any suit or proceeding affecting the real estate and shall be prima facie evidence of the facts and circumstances therein contained.

History: 1915, Act 123, Eff. Aug. 24, 1915;—CL 1915, 11738;—CL 1929, 13366;—CL 1948, 565.453;—Am. 1965, Act 178, Imd. Eff. July 15, 1965.

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