

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, 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 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 that are recorded within 2 years after the effective date of the amendatory act that added section 2(2) or during the 20-year period for mineral interests and the 40-year period for other interests. However, a person is not 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;—Am. 2018, Act 572, Eff. Mar. 29, 2019.

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

(2) For purposes of this section, except as to mineral interests, a conveyance or other title transaction in the chain of title purports to divest an interest in the property only if it creates the divestment or if it specifically refers by liber and page or other county-assigned unique identifying number to a previously recorded conveyance or other title transaction that created the divestment.

History: 1945, Act 200, Eff. Sept. 6, 1945;—CL 1948, 565.102;—Am. 1997, Act 154, Imd. Eff. Dec. 22, 1997;—Am. 2018, Act 572, Eff. Mar. 29, 2019.

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

Sec. 3. (1) Marketable title is held by a person and is taken by his or her 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 within 5 years after March 29, 2019 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 in the manner

required by section 5.

(2) 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.

(3) 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 run is the date of recording of the instrument that contains the basis for the claim.

(4) A notice under this section 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;—Am. 2018, Act 572, Eff. Mar. 29, 2019;—Am. 2020, Act 294, Imd. Eff. Dec. 29, 2020.

***** 565.104 THIS SECTION IS AMENDED EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2022 REGULAR SESSION SINE DIE: See 565.104.amended *****

565.104 Marketable record title; failure to file notice not to bar right to possession; applicability to government property or oil and gas interests.

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

(a) Bar a lessor or his or her successor as reversioner of his or her right to possession on the expiration of a lease or a lessee or his or her successor of his or her rights in and to a lease.

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

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

(d) Bar or extinguish an easement or interest in the nature of an easement, or any rights appurtenant to the easement or interest granted, excepted, or reserved by a recorded instrument creating the easement or interest, including any rights for future use, if the existence of the easement or interest is evidenced by the location beneath, on, or above any part of the land described in the instrument of a pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole, tower, or other physical facility and whether or not the existence of the facility is observable, by reason of failure to file the notice required by this act.

(2) This act does not affect any right, title, or interest in land owned by the United States, or any right, title, or interest in any land owned by this state, or by any department, commission, or political subdivision thereof.

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

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;—Am. 2018, Act 572, Eff. Mar. 29, 2019.

***** 565.104.amended THIS AMENDED SECTION IS EFFECTIVE 91 DAYS AFTER ADJOURNMENT OF THE 2022 REGULAR SESSION SINE DIE *****

565.104.amended Marketable record title; failure to file notice not to bar right to possession; applicability to government property or oil and gas interests.

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

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

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

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

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

(i) The operation, construction, maintenance, improvement, removal, replacement, or protection of a pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole, tower, or other physical facility, whether or not the existence of the facility is observable.

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

(iii) The management of vegetation within the easement.

(e) Bar or extinguish any land or resource use restriction, including any of the following:

(i) An environmental restrictive covenant or other recorded instrument if the restrictive covenant or other recorded instrument specifically cites the state or federal environmental statute that is the basis for the restriction, including any of the following:

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

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

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

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

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

(2) This act does not affect any right, title, or interest in land owned by the United States, this state, or any department, commission, or political subdivision of this state.

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

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;—Am. 2018, Act 572, Eff. Mar. 29, 2019;—Am. 2022, Act 235, Eff. (sine die).

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

Sec. 5. (1) To be effective and to be entitled to record, a notice of claim under section 3 must contain an accurate and full description of all the land affected by the notice, which description must be set forth in particular terms and not by general inclusions. However, except as to mineral interests, if the claim is founded on a recorded instrument, the notice must also state the liber and page or other county-assigned unique identifying number of the recorded instrument the claim is founded on. The failure to include the liber and page or other county-assigned unique identifying number renders the recording ineffective and the claim unpreserved. The notice must contain all of the following:

(a) The claimant's name.

(b) The claimant's mailing address.

(c) The interest claimed to be preserved.

(d) Except as to mineral interests, the liber and page or other unique identification number of the instrument creating the interest to be preserved.

(e) The legal description of the real property affected by the claimed interest.

(f) The claimant's signature.

(g) An acknowledgment in the form required by the uniform recognition of acknowledgments act, 1969 PA 57, MCL 565.261 to 565.270, and section 27 of the Michigan notary public act, 2003 PA 238, MCL 55.287.

(h) The drafter's name and address.

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

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

(3) A register of deeds is entitled to charge the same fees for the recording of a notice under section 3 as are charged for recording deeds. In indexing notices under section 3, a register of deeds shall enter the notices

under the grantee indexes of deeds under the names of the claimants appearing in the notices.

History: 1945, Act 200, Eff. Sept. 6, 1945;—Am. 1947, Act 117, Imd. Eff. May 22, 1947;—CL 1948, 565.105;—Am. 2018, Act 572, Eff. Mar. 29, 2019.

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 Repealed. 2018, Act 572, Eff. Mar. 29, 2019.

Compiler's note: The repealed section pertained to claims not barred.