

Revised Statutes of 1846 (EXCERPT)
R.S. of 1846

CHAPTER 65

CHAPTER 65. OF ALIENATION BY DEED, AND THE PROOF AND RECORDING OF
CONVEYANCES, AND THE CANCELING OF MORTGAGES.

565.1 Conveyance of land made by deed.

Sec. 1. Conveyances of lands, or of any estate or interest therein, may be made by deed, signed and sealed by the person from whom the estate or interest is intended to pass, being of lawful age, or by his lawful agent or attorney, and acknowledged or proved and recorded as directed in this chapter, without any other act or ceremony whatever.

History: R.S. 1846, Ch. 65;—CL 1857, 2720;—CL 1871, 4203;—How. 5652;—CL 1897, 8956;—CL 1915, 11688;—CL 1929, 13278;—CL 1948, 565.1.

Former law: See Act of August 1805; Woodward Code, Secs. 87-90; Terr. Laws, vol. 1, 38; Cass Code, Terr. Laws, vol. 1, 146; Act of March 27, 1820, Terr. Laws, vol. 1, 516; Act of April 12, 1827; R.L. 1827, p. 258; R.L. 1833, p. 379; Terr. Laws, vol. 2, 361; R.S. 1838, p. 257 as amended by Act 115 of 1839, Sec. 19, p. 219, Act 108 of 1840, p. 166; Act 5 of 1843, p. 6.

565.3 Quit claim deed; estate passed.

Sec. 3. A deed of quit claim and release, of the form in common use, shall be sufficient to pass all the estate which the grantor could lawfully convey by a deed of bargain and sale.

History: R.S. 1846, Ch. 65;—CL 1857, 2722;—CL 1871, 4205;—How. 5653;—CL 1897, 8957;—CL 1915, 11689;—CL 1929, 13279;—CL 1948, 565.3.

565.4 Conveyance of greater estate than possessed; effect.

Sec. 4. A conveyance made by a tenant for life or years, purporting to grant a greater estate than he possessed or could lawfully convey, shall not work a forfeiture of his estate, but shall pass to the grantee all the estate which such tenant could lawfully convey.

History: R.S. 1846, Ch. 65;—CL 1857, 2723;—CL 1871, 4206;—How. 5654;—CL 1897, 8958;—CL 1915, 11690;—CL 1929, 13280;—CL 1948, 565.4.

565.5 Covenants; implication in conveyance.

Sec. 5. No covenant shall be implied in any conveyance of real estate, except oil and gas leases, whether such conveyance contain special covenants or not.

History: R.S. 1846, Ch. 65;—CL 1857, 2724;—CL 1871, 4207;—How. 5655;—CL 1897, 8959;—CL 1915, 11691;—Am. 1929, Act 168, Eff. Aug. 28, 1929;—CL 1929, 13281;—CL 1948, 565.5.

565.6 Covenants; implication in mortgage.

Sec. 6. No mortgage shall be construed as implying a covenant for the payment of the sum thereby intended to be secured; and where there shall be no express covenant for such payment contained in the mortgage, and no bond or other separate instrument to secure such payment, shall have been given, the remedies of the mortgagee shall be confined to the lands mentioned in the mortgage.

History: R.S. 1846, Ch. 65;—CL 1857, 2725;—CL 1871, 4208;—How. 5656;—CL 1897, 8960;—CL 1915, 11692;—CL 1929, 13282;—CL 1948, 565.6.

565.7 Conveyance of land adversely possessed; validity.

Sec. 7. No grant or conveyance of lands or interest therein, shall be void for the reason that, at the time of the execution thereof such lands shall be in the actual possession of another claiming adversely.

History: R.S. 1846, Ch. 65;—CL 1857, 2726;—CL 1871, 4209;—How. 5657;—CL 1897, 8961;—CL 1915, 11693;—CL 1929, 13283;—CL 1948, 565.7.

565.8 Deeds; execution; witnesses; acknowledgment; endorsement; validity and legality of certain acknowledgments and recordations of deeds; recorded deed lacking 1 or more witnesses.

Sec. 8. Deeds executed within this state of lands, or any interest in lands, shall be acknowledged before any judge, clerk of a court of record, or notary public within this state. The officer taking the acknowledgment shall endorse on the deed a certificate of the acknowledgment, and the true date of taking the acknowledgment, under his or her hand. Any deed that was acknowledged before any county clerk or clerk of any circuit court, before September 18, 1903, and the acknowledgment of the deed, and, if recorded, the

record of the deed, shall be as valid for all purposes so far as the acknowledgment and record are concerned, as if the deed had been acknowledged before any other officer named in this section, and the legality of the acknowledgment and record shall not be questioned in any court or place. If a deed has been recorded that lacks 1 or more witnesses and the deed has been of record for a period of 10 years or more, and is otherwise eligible to record, the record of the deed shall be effectual for all purposes of a legal record and the record of the deed or a transcript of the record may be given in evidence in all cases and the deed shall be as valid and effectual as if it had been duly executed in compliance with this section.

History: R.S. 1846, Ch. 65;—CL 1857, 2727;—CL 1871, 4210;—How. 5658;—CL 1897, 8962;—Am. 1903, Act 117, Eff. Sept. 15, 1903;—Am. 1905, Act 103, Imd. Eff. May 10, 1905;—CL 1915, 11694;—CL 1929, 13284;—Am. 1937, Act 162, Imd. Eff. July 9, 1937;—CL 1948, 565.8;—Am. 1980, Act 488, Imd. Eff. Jan. 21, 1981;—Am. 2002, Act 23, Imd. Eff. Mar. 4, 2002.

Compiler's note: Section 2 of Act 488 of 1980 provides: "This amendatory act shall not affect any instrument validly executed and acknowledged before the effective date of this amendatory act."

Former law: By the act of August 29, 1805, the clerk of every court was authorized to record all deeds and writings which were acknowledged or proved before such court, or any judge thereof, or any justice of the peace, or any notary public. If the party did not reside in Michigan the acknowledgment or proof was to be "before any court of law, or the mayor or any chief magistrate of any city, town, or corporation in which the party shall dwell, certified by such court, mayor, or magistrate, in the manner such acts are usually authenticated by them." Woodward Code, p. 52, Secs. 87 and 89; Cass Code, p. 45; Terr. Laws, vol. 1, p. 38. Act of Sept. 16, 1810; Terr. Laws, vol. 1, p. 189, authorizes justices of the peace to take acknowledgments. By the act of 1820, deeds were required to be signed and sealed by the parties, and acknowledged or proved by one or more of the subscribing witnesses thereto, before one of the judges of the supreme court, or one of the justices of any county court, a notary public, or justice of the peace. Code of 1820, p. 157; Terr. Laws, vol. 1, p. 516. Deeds executed in any other territory, state, or country, were required to be acknowledged or proved and certified according to the laws and usages of such territory, state, or country. The provisions of the act of 1820 were substantially re-enacted in 1827, and continued in force until August 31, 1838. Revision of 1827, p. 258, and 1833, p. 279; Terr. Laws, vol. 2, p. 361. By the R.S. 1838, p. 257, acknowledgments might be made "before any judge of any court of record, or before any notary public or justice of the peace within the state or of the United States, or in any foreign country, or before any minister or consul of the United States in any foreign country." And provision was made for proving deeds before a court of record, in case the grantor should die or depart from the state without having acknowledged the same. R.S. 1838, as amended by Act 115 of 1839, Sec. 17, p. 219, required two witnesses. R.S. 1838 required no witnesses to a deed. By Act 108 of 1840, p. 166, deeds might be acknowledged before a justice of the peace, judge of the circuit, district, or supreme courts of the state, or notary public, or master in chancery. If executed by a person residing in any other state or territory, the deed was required to be executed according to the laws of such state or territory. If executed by a person residing in a foreign country, it might be executed according to the laws of such country, and acknowledged before a minister plenipotentiary, consul, or charge d'affaires of the United States. This act was in force until repealed by the R.S. 1846. For acts respecting conveyances by the governor and judges, and by the mayor, recorder, and aldermen of Detroit, see Laws of 1834, p. 38; Act 47 of 1844, p. 60, as amended by Act 108 of 1846, p. 156; and Act 228 of 1850, p. 232.

565.9 Execution of deed in another state; governing law, acknowledgment.

Sec. 9. If any such deed shall be executed in any other state, territory or district of the United States, such deed may be executed according to the laws of such state, territory or district, and the execution thereof may be acknowledged before any judge of a court of record, notary public, justice of the peace, master in chancery or other officer authorized by the laws of such state, territory or district to take the acknowledgment of deeds therein, or before any commissioner appointed by the governor of this state for such purpose.

History: R.S. 1846, Ch. 65;—CL 1857, 2728;—CL 1871, 4211;—How. 5659;—CL 1897, 8963;—CL 1915, 11695;—CL 1929, 13285;—CL 1948, 565.9.

Former law: See section 2 of Act 108 of 1840.

565.10 Execution of deed in another state; seal of officer, certificate; record of prior deeds as evidence.

Sec. 10. In the cases provided for in the last preceding section unless the acknowledgment be taken before a commissioner appointed by the governor of this state for that purpose the officer taking such acknowledgment shall attach thereto the seal of his office, and if such acknowledgment be taken before a justice of the peace or other officer having no seal of office, such deed or other conveyance or instrument shall have attached thereto a certificate of the clerk or other proper certifying officer of a court of record of the county or district, or of the secretary of the state or territory within which such acknowledgment was taken under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was, at the date thereof, such officer as he is therein represented to be, and that he believes the signature of such person to such certificate of acknowledgment to be genuine, and that the deed is executed and acknowledged according to the laws of such state, territory or district. Whenever any deed or other instrument affecting the title to land, executed, acknowledged and authenticated in accordance with this section and the last preceding section, has been heretofore recorded in the proper county, such record, or a certified transcript thereof shall be prima facie evidence of the due execution of such instrument to the same extent as if it had been authenticated as required by the statute in force at the time such instrument was recorded.

History: R.S. 1846, Ch. 65;—CL 1857, 2729;—CL 1871, 4212;—Am. 1875, Act 215, Eff. Aug. 3, 1875;—How. 5660;—Am. 1891, Rendered Monday, July 7, 2025

Act 112, Eff. Oct. 2, 1891;—Am. 1893, Act 137, Eff. Aug. 28, 1893;—CL 1897, 8964;—CL 1915, 11696;—CL 1929, 13286;—CL 1948, 565.10.

Former law: The earlier acts did not require any clerk's certificate. Such certificate first became necessary May 20, 1839. Amendatory Act 115 of 1839, Sec. 34, p. 219, to R.S. 1838, which took effect 30 days thereafter, provided that "no register of deeds shall record any deed executed out of this state, unless there shall be attached thereto the official certificate of the proper certifying officer, showing that the officer taking the acknowledgment of such deed is such officer as by his certificate of acknowledgment he purports to be, duly commissioned and qualified." Act 108 of 1840, p. 166, which took effect Apr. 1, 1840, required that when the deed was executed in any other state or territory it should have attached thereto a certificate of the proper county clerk, under the seal of his office, that such deed was executed according to the laws of such state or territory. Act 5 of 1843, p. 6, effective Feb. 15, 1843, required that when the deed was executed in any other state or territory it should have attached thereto a certificate of the clerk or proper certifying officer of any court of record in such state or territory, under the seal of his office, that such deed was executed and acknowledged according to the laws of such state or territory. This provision continued in force until R.S. 1846.

565.11 Execution of deed in foreign country; governing law; acknowledgment; certificate, seal; validation of certain deeds; record as evidence.

Sec. 11. If such deed be executed in any foreign country it may be executed according to the laws of such country, and the execution thereof may be acknowledged before any notary public therein or before any minister plenipotentiary, minister extraordinary, minister resident, charge d'affaires, commissioner, or consul of the United States, appointed to reside therein; which acknowledgment shall be certified thereon by the officer taking the same under his hand, and if taken before a notary public his seal of office shall be affixed to such certificate: Provided, That all deeds of land situated within this state, heretofore or hereafter made in any foreign country, and executed in the presence of 2 witnesses, who shall have subscribed their names to the same as such, and the execution thereof shall have been acknowledged by the persons executing the same before any 1 of the officers authorized by this section to take such acknowledgment, and such acknowledgment shall have been certified thereon, as above required, shall be deemed between the parties thereto and all parties claiming under or through them, as valid and effectual to convey the legal estate of the premises therein described; and whenever such deed has been recorded in the office of the register of deeds of the proper county such record shall be effectual for all purposes of a legal record, and the record of such deed, or a transcript thereof, may be given in evidence as in other cases: Provided, That nothing herein contained shall impair the rights of any person under a purchase heretofore made in good faith and on valuable consideration.

History: R.S. 1846, Ch. 65;—CL 1857, 2730;—CL 1871, 4213;—How. 5661;—Am. 1889, Act 217, Eff. Oct. 2, 1889;—Am. 1889, Act 248, Imd. Eff. July 3, 1889;—CL 1897, 8965;—CL 1915, 11697;—CL 1929, 13287;—CL 1948, 565.11.

565.13 Conveyance by nonresident married person; effect; procedure.

Sec. 13. When a married person not residing in this state joins with his or her spouse in a conveyance of real estate situated within this state, the conveyance shall have the same effect as if he or she were not married, and the acknowledgment or proof of the execution of the conveyance by him or her may be the same as if he or she were not married.

History: R.S. 1846, Ch. 65;—CL 1857, 2732;—CL 1871, 4215;—How. 5663;—CL 1897, 8968;—CL 1915, 11700;—CL 1929, 13288;—CL 1948, 565.13;—Am. 1983, Act 212, Imd. Eff. Nov. 11, 1983.

565.14 Deed; failure to acknowledge; proof by witness of execution.

Sec. 14. When any grantor shall die, or depart from, or reside out of this state, not having acknowledged his deed, the due execution thereof may be proved by any competent subscribing witness thereto, before any court of record in this state.

History: R.S. 1846, Ch. 65;—CL 1857, 2733;—CL 1871, 4216;—How. 5664;—CL 1897, 8969;—CL 1915, 11701;—CL 1929, 13289;—CL 1948, 565.14.

565.15 Deed; failure to acknowledge; proof of handwriting where witnesses are unobtainable.

Sec. 15. If all the subscribing witnesses to such deed shall also be dead or out of this state, the same may be proved before any court of record in this state, by proving the handwriting of the grantor, and of any subscribing witness thereto.

History: R.S. 1846, Ch. 65;—CL 1857, 2734;—CL 1871, 4217;—How. 5665;—CL 1897, 8970;—CL 1915, 11702;—CL 1929, 13290;—CL 1948, 565.15.

565.16 Deed; refusal to acknowledge; application to circuit court; summons to grantor.

Sec. 16. If any grantor residing in this state shall refuse to acknowledge his or her deed, the grantee or any person claiming under him or her may apply to the circuit court in the county where the land lies, or where the

grantor or any subscribing witness to the deed resides, which shall issue a summons to the grantor to appear at a certain time and place before the court, to hear the testimony of the subscribing witnesses to the deed; and the summons with a copy of the deed annexed shall be served at least 7 days before the time therein assigned for proving the deed.

History: R.S. 1846, Ch. 65;—CL 1857, 2735;—CL 1871, 4218;—How. 5666;—CL 1897, 8971;—CL 1915, 11703;—CL 1929, 13291;—CL 1948, 565.16;—Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991.

565.17 Deed; proof of execution; certificate of court.

Sec. 17. At the time mentioned in the summons, or at any time to which the hearing may be adjourned, the due execution of the deed may be proved by the testimony of 1 or more of the subscribing witnesses; and if proved to the satisfaction of the court, it shall certify the same, and in the certificate he or she shall note the presence or absence of the grantor, as the fact may be.

History: R.S. 1846, Ch. 65;—CL 1857, 2736;—CL 1871, 4219;—How. 5667;—CL 1897, 8972;—CL 1915, 11704;—CL 1929, 13292;—CL 1948, 565.17;—Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991.

565.18 Deed; refusal to acknowledge; proof of execution by proving handwriting.

Sec. 18. If any grantor residing in this state shall refuse to acknowledge his deed, and the subscribing witnesses thereto shall all be dead, or out of the state, it may be proved before any court of record in this state, by proving the handwriting of the grantor, or of any subscribing witness; the said court first summoning the grantor for the purpose, in the manner before provided in this chapter.

History: R.S. 1846, Ch. 65;—CL 1857, 2737;—CL 1871, 4220;—How. 5668;—CL 1897, 8973;—CL 1915, 11705;—CL 1929, 13293;—CL 1948, 565.18.

565.19 Subscribing witnesses; subpoenas for attendance.

Sec. 19. The court before whom any deed may be presented to be proved, as provided by this act, may issue subpoenas to the subscribing witnesses or others, as the case may require, to appear and testify touching the execution of the deed. The subpoenas may be served in any part of this state.

History: R.S. 1846, Ch. 65;—CL 1857, 2738;—CL 1871, 4221;—How. 5669;—CL 1897, 8974;—CL 1915, 11706;—CL 1929, 13294;—CL 1948, 565.19;—Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991.

565.20 Subscribing witnesses; refusal to appear or testify; civil liability; contempt; penalty.

Sec. 20. Every person who being served with a subpoena under this act, shall without reasonable cause, refuse or neglect to appear, or appearing shall refuse to answer on oath, shall be liable to the injured party in the sum of 100 dollars damages, and for further damages as the party may sustain, and may also be committed to prison for contempt by the court who issued the subpoena, there to remain until he or she shall submit to answer upon oath.

History: R.S. 1846, Ch. 65;—CL 1857, 2739;—CL 1871, 4222;—How. 5670;—CL 1897, 8975;—CL 1915, 11707;—CL 1929, 13295;—CL 1948, 565.20;—Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991.

565.21 Unacknowledged deed; filing of copy by person interested; effect.

Sec. 21. A person interested in a deed that is not acknowledged may at any time before or during an application to the circuit court file in the office of the register of deeds of the county where the lands are situated, a copy of the deed compared with the original by the register, which shall in the case of proceedings before a court of record, for the space of 10 days after the first day of the next term of the court, have the same effect as the recording of the deed, if the deed shall, within that time be duly proved and recorded.

History: R.S. 1846, Ch. 65;—CL 1857, 2740;—CL 1871, 4223;—How. 5671;—CL 1897, 8976;—CL 1915, 11708;—CL 1929, 13296;—CL 1948, 565.21;—Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991.

565.22 Unacknowledged deed; effect of filing; continuation.

Sec. 22. If at the expiration of the time mentioned in the preceding section for that purpose, the proceedings for proving the execution of the deed shall be pending before the circuit court, the effect of filing such copy shall continue until the expiration of 7 days after the termination of the proceedings, if such deed shall within that time be duly proved and recorded.

History: R.S. 1846, Ch. 65;—CL 1857, 2741;—CL 1871, 4224;—How. 5672;—CL 1897, 8977;—CL 1915, 11709;—CL 1929, 13297;—CL 1948, 565.22;—Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991.

565.23 Certificate of acknowledgment or proof of execution; effect on right to have deed recorded.

Sec. 23. A certificate of the acknowledgment of any deed, or of the proof of the execution thereof before a

court of record, signed by the clerk of such court before whom the same was taken, as provided in this chapter, and, in the cases where the same is necessary, the certificate required by section 11 of this chapter shall entitle the deed with the certificate or certificates to be recorded in the office of the register of deeds of the county where the lands lie.

History: R.S. 1846, Ch. 65;—CL 1857, 2742;—CL 1871, 4225;—How. 5673;—CL 1897, 8978;—CL 1915, 11710;—CL 1929, 13298;—CL 1948, 565.23;—Am. 1991, Act 149, Imd. Eff. Nov. 25, 1991.

Former law: From 1805 to 1815, deeds might be recorded in the office of any clerk of a court. Woodward Code, p. 52, sec. 87; Act of Aug. 29, 1805, Terr. Laws, vol. 1, p. 38; Act of Jan. 19, 1811, Terr. Laws, vol. 1, p. 162. The act of Nov. 4, 1815 required them to be recorded in the office of the register of probate of the district in which the lands were situate. Cass Code, p. 80; Terr. Laws, vol. 1, p. 176. See also Act of July 27, 1818, Terr. Laws, vol. 2, p. 140. By the act of Mar. 27, 1820 deeds were to be recorded in the office of the register of probate for the county, or register of the city, in which the lands were situate. Code of 1820, p. 157; Terr. Laws, vol. 1, p. 517. And see the Act of 1827, Rev. Laws of 1827, p. 258; Rev. Laws of 1833, p. 279; Terr. Laws, vol. 2, p. 261. See *Starkweather v. Martin*, 28 Mich. 477. The office of register of probate was abolished by the act of Jan. 29, 1835, and deeds, except of lands in Detroit, were required to be recorded in the office of the register of deeds elected for each county. Laws of 1835, p. 79; Terr. Laws, vol. 3, p. 1360. See also R.S. 1838, p. 260, Sec. 20; Amendatory Act 115 of 1839, Sec. 19, p. 219, to R.S. 1838; Act 108 of 1840, p. 167. As to recording in Detroit, see Act of July 28, 1818, Terr. Laws, vol. 2, p. 141; Act of Mar. 27, 1820; Terr. Laws, vol. 1, p. 518; Act of Apr. 12, 1827; Terr. Laws, vol. 2, p. 362; Rev. Laws of 1827, p. 259, of 1833, p. 280; Act of July 14, 1830, Rev. Laws of 1833, p. 282. See Laws of 1834, p. 38. The office of city register of Detroit was abolished by Act 115 of 1837, p. 268 and his duties conferred upon the register of deeds for the county of Wayne. Act 116 of 1837, p. 268. See Act 47 of 1844, p. 60, as amended by Act 108 of 1846, p. 156; Act 228 of 1850, p. 232.

565.24 Delivery of instrument to register of deeds; affixing date, hour, and minute; accessibility; destruction of information created or maintained under subsection (2); fee; indexing of instrument; applicability of subsections (2) to (4); "general index date" defined; civil immunity.

Sec. 24. (1) Upon delivery of an instrument to the register of deeds for the purpose of recording, the register shall note the date, hour, and minute of delivery on the first page of the instrument using a stamp or other method signifying that the date, hour, and minute was affixed by the register or a duly authorized representative of the register. If the instrument is received in bulk with other instruments, the date, hour, and minute of delivery shall be affixed in the manner required by this section as soon as is practical after its delivery. The date, hour, and minute so noted shall be presumed to be the date and time of delivery.

(2) Each instrument delivered to a register shall be accessible for public review. Accessibility shall be satisfied by providing the instrument inscribed in a tangible medium when requested. The requirement of this subsection shall be considered to be satisfied if the length of time between a request to locate a particular document or documents and the time the search is initiated and completed is reasonable in light of the volume of all instruments being recorded and the ability to access the requested documents without undue disruption to the office of the register. A register of deeds also may, but is not required to, do any of the following:

(a) Provide at least the first page of the instrument, stored in an electronic or other medium.

(b) Provide a temporary searchable journal containing at least the date of delivery, title of the instrument, and the names of the parties to the instrument.

(3) Any information created or maintained under subsection (2) may be destroyed when the instrument is entered into the index described in section 28 of this chapter or when the instrument is not accepted for recording.

(4) A register shall not charge a fee for any review or search under subsection (2) unless it involves the search of an original instrument. An original instrument is available for public review only in the presence of the register, deputy register, or a representative of the register appointed for that purpose. When a name search is performed by the register or a representative of the register, a reasonable fee, not to exceed \$15.00 for each 15 minutes or fraction thereof, may be charged for any search or review requested.

(5) Subsections (2) to (4) do not apply once the instrument is indexed as required in section 28 of this chapter.

(6) The register of deeds shall post in a conspicuous place in the register's office the general index date and shall maintain a record that memorializes both the calendar date and general index date that was posted on that calendar date. This public record shall be maintained in any reasonable medium that the register of deeds may select in his or her sole discretion. As used in this subsection, "general index date" means that date through which all recorded instruments bearing a delivery date up to and including the general index date have been fully recorded at length and indexed and are available for public inspection.

(7) If a county register of deeds or an officer, employee, or agent of a register of deeds is, or believes he or she is, acting within the scope of his or her authority and in the course of his or her employment when authorizing, conducting, or deciding when or whether to conduct a search under subsection (2), that action is within the exercise or discharge of his or her governmental function, and the register of deeds or the officer,

employee, or agent is immune from any claim for liability, including tort liability, that might otherwise entitle any person or other entity or corporation to monetary damages. The civil immunity provided under this section is in addition to any civil immunity provided under law, including, but not limited to, the application of section 7 of 1964 PA 170, MCL 691.1407.

History: R.S. 1846, Ch. 65;—CL 1857, 2743;—CL 1871, 4226;—Am. 1879, Act 262, Eff. Aug. 30, 1879;—How. 5674;—CL 1897, 8979;—CL 1915, 11711;—CL 1929, 13299;—Am. 1941, Act 263, Eff. Jan. 10, 1942;—CL 1948, 565.24;—Am. 2008, Act 357, Imd. Eff. Dec. 23, 2008.

565.24a Assignment of liber and page or unique identifying number; satisfaction of recording requirements; delivery of instrument rejected on prior occasion.

Sec. 24a. (1) The register's assignment of a liber and page or other unique identifying number is prima facie evidence that the instrument has satisfied all recording requirements, including the payment of fees, and has been accepted for recording.

(2) An instrument is deemed to be recorded at the date and time of delivery to the register if the instrument is later determined to have satisfied all recording requirements, including the payment of fees.

(3) When an instrument that was rejected on a prior occasion is delivered, a new delivery date and time shall be noted on the face of the instrument as required by section 24 of this chapter, and the later date and time shall be rebuttably presumed to be the date and time of delivery.

History: Add. 2008, Act 357, Imd. Eff. Dec. 23, 2008.

565.25 Perfecting recording; conditions; exemptions; liability for certain conduct; penalties.

Sec. 25. (1) Except as otherwise provided in subsection (2), the recording of a levy, attachment, lien, lis pendens, sheriff's certificate, marshal's certificate, or other instrument of encumbrance does not perfect the instrument of encumbrance unless both of the following are found by a court of competent jurisdiction to have accompanied the instrument when it was delivered to the register under section 24(1) of this chapter:

(a) A full and fair accounting of the facts that support recording of the instrument of encumbrance and supporting documentation, as available.

(b) Proof of service that actual notice has been given to the recorded landowner of the land to which the instrument of encumbrance applies.

(2) Subsection (1) does not apply to any of the following:

(a) A tax lien that is not required to be recorded pursuant to the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

(b) The filing of an instrument of encumbrance authorized by state statute or federal statute.

(c) The filing of a consensual agreement to encumber real property entered into between the owner of real property and the person who seeks to record an encumbrance. A consensual agreement includes but is not limited to a mortgage, loan agreement, land contract, or other consensual or contractual agreement of whatever description entered into between the owner of real property and the person who seeks to record an encumbrance.

(d) The filing of an encumbrance authorized in a final order by a court of competent jurisdiction.

(e) A filing of a levy, attachment, lien, lis pendens, sheriff's certificate, marshal's certificate, or other instrument of encumbrance by a commercial lending institution. As used in this section, "commercial lending institution" means any of the following:

(i) A state or nationally chartered bank.

(ii) A state or federally chartered savings and loan association or savings bank.

(iii) A state or federally chartered credit union.

(iv) Any other state or federally chartered lending institution or regulated affiliate or regulated subsidiary of any entity listed in this subparagraph or subparagraphs (i) to (iii).

(v) An insurance company authorized to do business in this state pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(vi) A motor vehicle finance company subject to the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141, with net assets in excess of \$50,000,000.00.

(vii) A foreign bank.

(viii) A retirement fund regulated pursuant to state law, or a pension fund of a local unit of government or a pension fund regulated pursuant to federal law with net assets in excess of \$50,000,000.00.

(ix) A federal, state, or local agency authorized by law to hold a security interest in real property or a local unit of government holding a reversionary interest in real property.

(x) A nonprofit tax exempt organization created to promote economic development in which a majority of the organization's assets are held by a local unit of government.

- (xi) An entity within the federally chartered farm credit system.
- (xii) A licensee under the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.
- (xiii) A holder under the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.
- (xiv) A retail seller under the retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.
- (xv) A licensee under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, pertaining to secondary mortgages.
- (xvi) A licensee under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.
- (xvii) A licensee under the regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.
- (xviii) A regulated lender under the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.
- (3) A person who is not exempt under subsection (2) who encumbers property through the recording of an instrument listed under subsection (1) without lawful cause with the intent to harass or intimidate any person is liable for the penalties set forth in section 2907a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2907a.

History: R.S. 1846, Ch. 65;—CL 1857, 2744;—CL 1871, 4227;—Am. 1879, Act 262, Eff. Aug. 30, 1879;—How. 5675;—CL 1897, 8980;—CL 1915, 11712;—CL 1929, 13300;—CL 1948, 565.25;—Am. 1958, Act 74, Eff. Sept. 13, 1958;—Am. 1996, Act 526, Eff. Mar. 31, 1997;—Am. 2008, Act 357, Imd. Eff. Dec. 23, 2008.

565.26 Repealed. 2008, Act 358, Imd. Eff. Dec. 23, 2008.

Compiler's note: The repealed section pertained to the use of a different set of books for recording of deeds and mortgages.

565.27 Recorded instruments; contents.

Sec. 27. The register may note upon every instrument he or she records the date and time when it was accepted, after the instrument met all recording requirements including the payment of fees. The register also shall note a reference to the liber and page, or other unique identifying number, where it is recorded.

History: R.S. 1846, Ch. 65;—CL 1857, 2746;—CL 1871, 4229;—How. 5681;—CL 1897, 8986;—CL 1915, 11719;—CL 1929, 13302;—CL 1948, 565.27;—Am. 2008, Act 358, Imd. Eff. Dec. 23, 2008.

565.28 Register of deeds; general index; contents; computerized index; securing computerized and primary indexes.

Sec. 28. (1) Each register of deeds shall keep a general index of instruments accepted for recording, after the instruments have met all recording requirements, including the payment of fees, by means of books or computerization or a combination of both. The index shall include the following information:

- (a) Liber and page, or other unique identifying number, which shall be sequentially, not randomly, assigned.
- (b) Instrument type.
- (c) The name of each party to each instrument.
- (d) Date processed, after having met all recording requirements, including payment of fees.
- (e) Location of land: section, town and range, platted description, or other description authorized by law.
- (f) Other reference information as required.

(2) Each computerized index shall be maintained to allow for an alphabetical search of the names of each party to each instrument, except as provided in section 1a(g) of 1915 PA 123, MCL 565.451a, recorded by the register of deeds.

(3) Each computerized index shall be secured by a duplicate index maintained at a separate location from the primary index.

(4) The primary index shall be secured by a code, key, or other system designed to prohibit an unauthorized person from altering the index.

History: R.S. 1846, Ch. 65;—CL 1857, 2747;—CL 1871, 4230;—How. 5682;—Am. 1893, Act 80, Eff. Aug. 28, 1893;—CL 1897, 8987;—CL 1915, 11720;—CL 1929, 13303;—Am. 1941, Act 263, Eff. Jan. 10, 1942;—CL 1948, 565.28;—Am. 1980, Act 95, Imd. Eff. Apr. 16, 1980;—Am. 1992, Act 212, Imd. Eff. Oct. 5, 1992;—Am. 2008, Act 358, Imd. Eff. Dec. 23, 2008;—Am. 2014, Act 349, Imd. Eff. Oct. 17, 2014.

565.29 Unrecorded conveyance; validity against subsequent purchaser; relation of quit claim deed to good faith.

Sec. 29. Every conveyance of real estate within the state hereafter made, which shall not be recorded as provided in this chapter, shall be void as against any subsequent purchaser in good faith and for a valuable consideration, of the same real estate or any portion thereof, whose conveyance shall be first duly recorded. The fact that such first recorded conveyance is in the form or contains the terms of a deed of quit-claim and

release shall not affect the question of good faith of such subsequent purchaser, or be of itself notice to him of any unrecorded conveyance of the same real estate or any part thereof.

History: R.S. 1846, Ch. 65;—CL 1857, 2748;—CL 1871, 4231;—How. 5683;—CL 1897, 8988;—Am. 1915, Act 199, Eff. Aug. 24, 1915;—CL 1915, 11721;—CL 1929, 13304;—CL 1948, 565.29.

565.30 Deeds of church pews and slips; recording.

Sec. 30. Deeds of pews or slips in any church, may be recorded by the clerk of the township in which such a church is situated, or by the clerk of the society or proprietors, if incorporated or legally organized; and such clerks shall receive the same fees as the register of deeds is entitled to for similar services.

History: R.S. 1846, Ch. 65;—CL 1857, 2749;—CL 1871, 4232;—How. 5684;—CL 1897, 8989;—CL 1915, 11722;—CL 1929, 13305;—CL 1948, 565.30.

565.32 Unrecorded deed of defeasance; validity against person without notice.

Sec. 32. When a deed purports to be an absolute conveyance in terms, but is made or intended to be made defeasible by force of a deed of defeasance or other instrument for that purpose, the original conveyance shall not be thereby defeated or affected, as against any person other than the maker of the defeasance, or his heirs or devisees, or persons having actual notice thereof, unless the instrument of defeasance shall have been recorded in the registry of deeds of the county where the lands lie.

History: R.S. 1846, Ch. 65;—CL 1857, 2751;—CL 1871, 4234;—How. 5686;—CL 1897, 8991;—CL 1915, 11723;—CL 1929, 13306;—CL 1948, 565.32.

565.33 Assignment of mortgage; effect of recording.

Sec. 33. The recording of an assignment of a mortgage shall not, in itself, be deemed notice of such assignment to the mortgagor, his heirs or personal representatives, so as to invalidate any payment made by them, or either of them to the mortgagee.

History: R.S. 1846, Ch. 65;—CL 1857, 2752;—CL 1871, 4235;—How. 5687;—CL 1897, 8992;—CL 1915, 11724;—CL 1929, 13307;—CL 1948, 565.33.

565.34 Purchaser; definition.

Sec. 34. The term "purchaser," as used in this chapter, shall be construed to embrace every person to whom any estate or interest in real estate, shall be conveyed for a valuable consideration, and also every assignee of a mortgage, or lease or other conditional estate.

History: R.S. 1846, Ch. 65;—CL 1857, 2753;—CL 1871, 4236;—How. 5688;—CL 1897, 8993;—CL 1915, 11725;—CL 1929, 13308;—CL 1948, 565.34.

565.35 Conveyance; definition.

Sec. 35. The term "conveyance," as used in this chapter, shall be construed to embrace every instrument in writing, by which any estate or interest in real estate is created, aliened, mortgaged or assigned; or by which the title to any real estate may be affected in law or equity, except wills, leases for a term not exceeding 3 years, and executory contracts for the sale or purchase of lands.

History: R.S. 1846, Ch. 65;—CL 1857, 2754;—CL 1871, 4237;—How. 5689;—CL 1897, 8994;—CL 1915, 11726;—CL 1929, 13309;—CL 1948, 565.35.

565.36 Power of attorney to convey lands; inapplicability of preceding section; executory land contract; recording; recording as evidence.

Sec. 36. The preceding section shall not be construed to extend to a letter of attorney, or other instrument containing a power to convey lands as agent or attorney for the owner of such lands; but every such letter or instrument, and every executory contract for the sale or purchase of lands, when acknowledged or proved in the manner prescribed in this chapter, may be recorded in the registry of deeds of any county in which the lands to which such power or contract relates, may be situated; and when so acknowledged or proved, and the record thereof when recorded, or a transcript of such record duly certified, may be read in evidence in the same manner, and with the like effect, as a conveyance recorded in such county.

History: R.S. 1846, Ch. 65;—CL 1857, 2755;—CL 1871, 4238;—How. 5690;—CL 1897, 8995;—CL 1915, 11727;—CL 1929, 13310;—CL 1948, 565.36.

565.37 Power of attorney to convey lands; recording of revocation.

Sec. 37. No letter of attorney or other instrument so recorded, shall be deemed to be revoked by any act of the party by whom it was executed, unless the instrument containing such revocation be also recorded in the same office in which the instrument containing the power was recorded.

History: R.S. 1846, Ch. 65;—CL 1857, 2756;—CL 1871, 4239;—How. 5692;—CL 1897, 8998;—CL 1915, 11730;—CL 1929, 13311;—CL 1948, 565.37.

565.38 New county; transcription of instruments; effect, compensation of register.

Sec. 38. When a new county shall be organized, in whole or in part from an organized county, or from territory attached to such organized county for judicial purposes, all the records of deeds and other instruments relating to real estate in such new county, may be transcribed into the proper books by the register of deeds of such new county; which records so transcribed, shall have the same effect in all respects as original records, and the register shall be paid for transcribing the same, such sum as the board of supervisors of his county may deem just and reasonable.

History: R.S. 1846, Ch. 65;—CL 1857, 2757;—CL 1871, 4240;—How. 5693;—CL 1897, 8999;—CL 1915, 11731;—CL 1929, 13312;—CL 1948, 565.38.

565.39 Device used as seal; effect; application to official seals.

Sec. 39. A scroll or device used as a seal upon any deed of conveyance or other instrument whatever, whether intended to be recorded or not, shall have the same force and effect as a seal attached thereto, or impressed thereon, but this section shall not be construed to apply to such official seals as are or may be provided for by law.

History: R.S. 1846, Ch. 65;—CL 1857, 2758;—CL 1871, 4241;—How. 5699;—CL 1897, 9005;—CL 1915, 11740;—CL 1929, 13313;—CL 1948, 565.39.

Former law: Act of Oct. 23, 1822, Terr. Laws, vol. 1, p. 272, contains similar provisions. The act of June 10, 1828, provided that “any instrument to which the person making the same shall affix any device by way of seal, shall be adjudged and held to be of the same force and obligations as if it were actually sealed.” And that “all instruments executed since the thirty-first day of December, 1827, to which the person or persons executing the same may have affixed any device by way of seal, shall be adjudged and held of the same force and obligation as if the same were actually sealed.” Laws of 1828, p. 29; Revision of 1833, p. 516; Terr. Laws, vol. 2, p. 667; *Starkweather v. Martin*, 28 Mich. 479. A similar provision has been in force ever since. R.S. 1838, p. 438, 439; Sec. 8, Act 108 of 1840. Until the R.S. of 1846 (p. 487, Sec. 49), there was no statutory provision dispensing with the necessity of a seal, or a substitute therefor, to a conveyance of lands.

565.40 Prior legal conveyances; effect as evidence, recording; conveyance under unacknowledged contract, record as evidence.

Sec. 40. All conveyances of real estate heretofore made and acknowledged or proved, in accordance with the laws of this state, in force at the time of such making and acknowledgment or proof, shall have the same force as evidence, and be recorded in the same manner, and with the like effect, as conveyances executed and acknowledged in pursuance of the provisions of this chapter. And where any conveyance, with an unacknowledged contract in writing attached, annexed or appended thereto, and referred to in the body of such conveyance as being thereto attached, appended or annexed, has been heretofore recorded, or that may be hereafter recorded; the record, or a transcript of the record of such conveyance and contract, certified by the register in whose office the same may have been recorded, may be read in evidence in any court within this state without further proof thereof; but the effect of such evidence may be rebutted by other competent testimony.

History: R.S. 1846, Ch. 65;—CL 1857, 2759;—CL 1871, 4242;—How. 5700;—Am. 1889, Act 101, Eff. Oct. 2, 1889;—CL 1897, 9006;—CL 1915, 11741;—CL 1929, 13314;—CL 1948, 565.40.

565.41 Discharge of mortgage; payment of filing fee by mortgagee; date of discharge.

Sec. 41. (1) Within the applicable time period in section 44(2) after a mortgage has been paid or otherwise satisfied, the mortgagee or the personal representative, successor, or assign of the mortgagee shall prepare a discharge of the mortgage, file the discharge with the register of deeds for the county where the mortgaged property is located, and pay the fee for recording the discharge.

(2) If a discharge of mortgage received by a register of deeds under subsection (1) is not recorded on the day it is received, the register of deeds shall place on or attach to the discharge, by means of a stamp, electronically, or otherwise, the date the discharge is received. The date placed on or attached to the discharge under this subsection is prima facie evidence of the date the discharge was filed with the register of deeds.

History: Add. 1964, Act 110, Eff. Aug. 28, 1964;—Am. 2004, Act 447, Imd. Eff. Dec. 27, 2004.

565.42 Discharge of mortgage; certificate of mortgagee; circuit court, or register in chancery.

Sec. 42. Any mortgage shall also be discharged upon the record thereof by the register of deeds, in whose custody it shall be, whenever there shall be presented to him a certificate executed by the mortgagee, his personal representative or assigns, acknowledged, approved and certified as in this chapter provided, to entitle conveyances or instruments in writing in any wise affecting the title to lands to be recorded, specifying that

such mortgage has been paid, or otherwise satisfied or discharged; or upon the presentation to such register of deeds of the certificate of the circuit court, signed by the judge of said court, and under the seal thereof, certifying that it has been made to appear to said court that said mortgage has been duly paid, or upon the presentation to such register of deeds of a certificate of the register in chancery of the county and under the seal thereof certifying that a decree of foreclosure of any such mortgage has been duly entered in his office, and that the records in his office shows that such decree has been fully paid and satisfied.

History: R.S. 1846, Ch. 65;—CL 1857, 2761;—Am. 1867, Act 102, Imd. Eff. Mar. 26, 1867;—CL 1871, 4244;—Am. 1875, Act 47, Eff. Aug. 3, 1875;—How. 5702;—CL 1897, 9008;—CL 1915, 11743;—CL 1929, 13316;—CL 1948, 565.42.

Compiler's note: The register of chancery, referred to in this section, is now clerk of the circuit court. See MCL 600.571.

565.43 Discharge of mortgage; recording of certificate; reproduced documents; reference to liber and page containing certificate.

Sec. 43. Every certificate described in section 42 of this chapter, and the proof or acknowledgment of the certificate, shall be recorded at full length, and a reference shall be made to the liber and page, or other unique identifying number, containing the certificate, in the minutes of the discharge of the mortgage made by the register upon the mortgage. If the register of deeds is authorized by the board of commissioners to reproduce deeds, mortgages, maps, instruments, or writings, as provided in section 2 of 1964 PA 105, MCL 691.1102, and the mortgage does not exist in a hard copy medium, it is not necessary for him or her to make reference to the liber and page containing the certificate on the liber and page containing the mortgage. Instead, reference to the liber and page containing the certificate shall be made in the index to the permanent index of mortgages.

History: R.S. 1846, Ch. 65;—CL 1857, 2762;—CL 1871, 4245;—How. 5703;—CL 1897, 9009;—CL 1915, 11744;—CL 1929, 13317;—CL 1948, 565.43;—Am. 1959, Act 22, Imd. Eff. Apr. 30, 1959;—Am. 1992, Act 212, Imd. Eff. Oct. 5, 1992;—Am. 2008, Act 358, Imd. Eff. Dec. 23, 2008.

565.44 Discharge of mortgage; refusal; civil liability; penalty; time periods.

Sec. 44. (1) If a mortgagee or the personal representative or assignee of the mortgagee, after full performance of the condition of the mortgage, whether before or after a breach of the mortgage, or, if the mortgage is entirely due, after a tender of the whole amount due, within the applicable time period in subsection (2) after being requested and after tender of the mortgagee's reasonable charges, refuses or neglects to discharge the mortgage as provided in this chapter or to execute and acknowledge a certificate of discharge or release of the mortgage, the mortgagee is liable to the mortgagor or the mortgagor's heirs or assigns for \$1,000.00 damages. The mortgagee is also liable for all actual damages caused by the neglect or refusal to the person who performs the condition of the mortgage or makes the tender to the mortgagee or the mortgagee's heirs or assigns, or to anyone who has an interest in the mortgaged premises. Damages under this section may be recovered in an action for money damages or to procure a discharge or release of the mortgage. The court may, in its discretion, award double costs in an action under this section.

(2) The discharge of mortgage, execution and acknowledgment of a certificate, or filing of a discharge of mortgage required by this section or section 41 shall be performed within whichever of the following time periods is applicable:

(a) For the first 2 years after the effective date of the amendatory act that added this subsection, 75 days.

(b) Beginning 2 years after the effective date of the amendatory act that added this subsection, 60 days.

History: R.S. 1846, Ch. 65;—CL 1857, 2763;—Am. 1861, Act 13, Eff. June 15, 1861;—CL 1871, 4246;—How. 5704;—CL 1897, 9010;—CL 1915, 11745;—CL 1929, 13318;—CL 1948, 565.44;—Am. 2004, Act 447, Imd. Eff. Dec. 27, 2004.

565.46 Proof and acknowledgment of deeds; application of law to instruments affecting lands.

Sec. 46. The preceding sections of this chapter to procure, enforce and obtain the proof and acknowledgment of deeds, shall be, and the same are hereby made applicable to all instruments in writing in any wise affecting the title to lands which are required or authorized to be acknowledged, or acknowledged and recorded.

History: Add. 1867, Act 102, Imd. Eff. Mar. 26, 1867;—CL 1871, 4248;—How. 5706;—CL 1897, 9012;—CL 1915, 11747;—CL 1929, 13319;—CL 1948, 565.46.

565.47 Recording by register of deeds; acknowledgment required.

Sec. 47. A deed, mortgage, or other instrument in writing that by law is required to be acknowledged affecting the title to lands, or any interest therein, shall not be recorded by the register of deeds of any county unless the deed, mortgage, or other instrument is acknowledged or proved as provided by this chapter.

History: Add. 1867, Act 102, Imd. Eff. Mar. 26, 1867;—CL 1871, 4249;—How. 5707;—CL 1897, 9013;—CL 1915, 11748;—CL 1929, 13320;—CL 1948, 565.47;—Am. 2002, Act 23, Imd. Eff. Mar. 4, 2002.

565.48 Deed by surviving joint tenant of lands; recording; certified copy of death.

Sec. 48. A register of deeds shall not record a deed or other instrument in writing that purports to convey an interest in land by the survivor or survivors under a deed to joint tenants or tenants by the entirety, unless, for each joint tenant or tenant by the entirety who is indicated in the deed or instrument to be deceased, a certified copy of the death certificate or other proof of death that is permitted by the laws of this state to be received for record by the register, is shown to have been recorded in the register's office by liber and page reference or is filed concurrently with the deed or other instrument and recorded as a separate document.

History: Add. 1947, Act 20, Eff. Oct. 11, 1947;—CL 1948, 565.48;—Am. 2018, Act 195, Eff. Sept. 18, 2018.

565.49 Conveyances; same person or persons among grantors and grantees; joint tenancy, tenancy by entireties.

Sec. 49. Conveyances in which the grantor or 1 or more of the grantors are named among the grantees therein shall have the same force and effect as they would have if the conveyance were made by a grantor or grantors who are not named among the grantees. Conveyances expressing an intent to create a joint tenancy or tenancy by the entireties in the grantor or grantors together with the grantee or grantees shall be effective to create the type of ownership indicated by the terms of the conveyance.

History: Add. 1955, Act 3, Eff. Oct. 14, 1955.