

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 366**

A bill to regulate the solicitation of certain deeds; to prescribe the powers and duties of certain state agencies and officials; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "solicitation of deeds act".

3 Sec. 2. As used in this act:

4 (a) "Deed" means a written instrument entitled to be recorded
5 in the office of the register of deeds that purports to convey or
6 transfer title to a freehold interest in any lands, tenements, or
7 other realty in this state by way of grant or bargain and sale from
8 the named grantor to the named grantee. A leasehold interest for 99
9 years or more or a proprietary lease of a cooperative unit and any
10 assignment of a proprietary lease of a cooperative unit shall be

1 treated as a "freehold". Deed does not include instruments
2 providing for any of the following:

3 (i) Common driveways.

4 (ii) Exchanges of easements or rights-of-way.

5 (iii) Revocable licenses to use, adjust, or clear defects of
6 or clouds on title.

7 (iv) Utility service lines such as drainage, sewerage, water,
8 electric, telephone, or other such service lines.

9 (v) Quitclaim of possible outstanding interests.

10 (b) "Department" means the department of attorney general.

11 (c) "Person" means an individual, partnership, corporation,
12 association, governmental entity, or other legal entity.

13 (d) "Public body" means that term as it is defined in section
14 2 of the freedom of information act, 1976 PA 442, MCL 15.232.

15 (e) "Rule" means a rule promulgated pursuant to the
16 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
17 24.328.

18 (f) "Solicit" means to advertise or market to a person with
19 whom the solicitor has no preexisting business relationship.

20 Sec. 3. (1) A person soliciting a fee for providing a copy of
21 a deed shall state on the top of the document used for the
22 solicitation, in at least 24-point type, all of the following:

23 (a) That the solicitation is not from a public body.

24 (b) That no action is legally required by the person being
25 solicited.

26 (c) The statutory fee for, or the cost of, obtaining a copy of
27 the deed from the public body that has custody of the record.

1 (d) The information necessary to contact the public body that
2 has custody of the deed.

3 (e) The name and physical address of the person soliciting the
4 fee.

5 (2) The document used for a solicitation under this section
6 shall not be in a form or use deadline dates or other language that
7 makes the document appear to be a document issued by a public body
8 or that appears to impose a legal duty on the person being
9 solicited. The department may promulgate rules specifying the
10 contents and form of the solicitation document.

11 (3) A person soliciting a fee for providing a copy of a deed
12 shall not charge a fee of more than 4 times the statutory fee
13 charged by the public body that has custody of the deed for a copy
14 of that deed.

15 (4) A person soliciting a fee from property owners for
16 providing a copy of a deed shall furnish the office of the register
17 of deeds of each county where the solicitations are to be
18 distributed with a copy of the document that will be used for those
19 solicitations not less than 15 days before distributing the
20 solicitations.

21 Sec. 4. This act does not apply to any of the following:

22 (a) A title insurance company authorized to do business in
23 this state or its authorized agent.

24 (b) A licensed mortgage loan originator, mortgage broker,
25 lender, or servicer, or a depository financial institution
26 authorized under state and federal law to originate or service
27 mortgage loans.

1 (c) A real estate broker or salesperson licensed under article
2 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

3 Sec. 5. The department may investigate violations of this act.
4 The department may bring an action or request a county prosecutor
5 to bring an action against any person that violates this act. The
6 court may order a person that violates this act to refund all of
7 the money paid to the violator with respect to the solicitation. In
8 addition, the person may be ordered to pay, for a first violation,
9 a civil fine of not more than \$100.00 for each solicitation
10 document distributed in violation of this act or, for a subsequent
11 violation, a civil fine of not more than \$200.00 for each
12 solicitation document distributed in violation of this act. A fine
13 collected under this section shall be paid to the clerk of court.
14 The fine shall be forwarded by the clerk to the county treasurer
15 and applied to library purposes as provided by law.

16 Enacting section 1. This act takes effect 90 days after the
17 date it is enacted into law.