

HOUSE BILL No. 4273

February 11, 1997, Introduced by Reps. Tesanovich, Cherry, Anthony, Gagliardi, Prusi, Hale, Bobier, Parks, Bogardus, Horton, Lowe, LaForge and Hanley and referred to the Committee on Forestry and Mineral Rights.

A bill to amend 1945 PA 200, entitled

"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,"

by amending the title and sections 1, 2, 3, and 6 (MCL 565.101, 565.102, 565.103, and 565.106) and by adding sections 2a and 2b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

2

An act to define a marketable record title to an interest in

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land OTHER THAN AN OIL OR GAS INTEREST; to require the filing of

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notices of claim of interest in such land in certain cases within

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a definite period of time and to require the recording thereof;

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to make invalid and of no force or effect all claims with respect

1 to the land affected thereby where no such notices of claim of
2 interest are filed within the required period; to provide for
3 certain penalties for filing slanderous notices of claim of
4 interest, and to provide certain exceptions to the applicability
5 and operation thereof.

6 Sec. 1. Any person, having the legal capacity to own land
7 in this state, who has an unbroken chain of title of record to
8 any interest in land for ~~40~~ 20 years FOR MINERAL INTERESTS AND
9 40 YEARS FOR OTHER INTERESTS, shall at the end of ~~such~~ THE
10 APPLICABLE period be ~~deemed~~ CONSIDERED to have a marketable
11 record title to ~~such~~ THAT interest, subject only to ~~such~~
12 claims ~~thereto~~ TO THAT INTEREST and defects of title as are not
13 extinguished or barred by application of ~~the provisions of suc-~~
14 ~~ceeding sections of~~ this act and subject also to ~~such~~ ANY
15 interests and defects as are inherent in the provisions and limi-
16 tations contained in the muniments of which ~~such~~ THE chain of
17 record title is formed and which have been recorded during ~~said~~
18 ~~40~~ THE 20-year period ~~:- Provided, however, That no one~~ FOR
19 MINERAL INTERESTS AND THE 40-YEAR PERIOD FOR OTHER INTERESTS.
20 HOWEVER, A PERSON shall NOT be ~~deemed~~ CONSIDERED to have ~~such~~
21 a marketable record title by reason of ~~the terms of~~ this act,
22 if the land in which ~~such~~ THE interest exists is in the hostile
23 possession of another.

24 Sec. 2. ~~A~~ EXCEPT AS PROVIDED IN SECTION 2A, A person
25 ~~shall be deemed~~ IS CONSIDERED to have ~~the~~ AN unbroken chain
26 of title to an interest in land as ~~such terms are used in the~~

1 ~~preceding~~ PROVIDED IN section 1 when the official public records
2 disclose EITHER OF THE FOLLOWING:

3 (a) A conveyance or other title transaction not less than
4 ~~40~~ 20 years in the past FOR MINERAL INTERESTS AND 40 YEARS FOR
5 OTHER INTERESTS, which ~~said~~ conveyance or other title transac-
6 tion purports to create ~~such~~ THE interest in ~~such~~ THAT
7 person, with nothing appearing of record purporting to divest
8 ~~such~~ THAT person of ~~such~~ THE purported interest. ~~; or,~~

9 (b) A conveyance or other title transaction not less than
10 ~~40~~ 20 years in the past FOR MINERAL INTERESTS AND 40 YEARS FOR
11 OTHER INTERESTS, which ~~said~~ conveyance or other title transac-
12 tion purports to create ~~such~~ THE interest in some other person
13 and other conveyances or title transactions of record by which
14 ~~such~~ THE purported interest has become vested in the person
15 first referred to in this section, with nothing appearing of
16 record purporting to divest the person first referred to in this
17 section of ~~such~~ THE purported interest.

18 SEC. 2A. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT,
19 WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH
20 PERSON WITH A MINERAL INTEREST IN REAL PROPERTY SHALL RECORD WITH
21 THE REGISTER OF DEEDS NOTICE OF HIS OR HER MINERAL INTEREST IN
22 THE MANNER PROVIDED IN SECTION 5. ANY MINERAL INTEREST THAT IS
23 NOT RECORDED WITHIN THE TIME PERIOD PROVIDED IN THIS SECTION IS
24 VOID AND THAT INTEREST REVERTS TO THE SURFACE OWNER OF THE
25 PROPERTY.

1 SEC. 2B. THIS ACT DOES NOT APPLY TO OIL AND GAS INTERESTS
2 IN REAL PROPERTY THAT ARE REGULATED UNDER 1963 PA 42, MCL 554.291
3 TO 554.294.

4 Sec. 3. ~~Such marketable~~ MARKETABLE title shall be held by
5 ~~such~~ A person and shall be taken by his OR HER successors in
6 interest free and clear of any and all interests, claims, and
7 charges whatsoever the existence of which depends in whole or in
8 part upon any act, transaction, event, or omission that occurred
9 prior to ~~such 40~~ THE 20-year period FOR MINERAL INTERESTS, AND
10 THE 40-YEAR PERIOD FOR OTHER INTERESTS, and all ~~such interest~~
11 INTERESTS, claims, and charges are hereby declared to be null and
12 void and of no effect ~~whatever~~ at law or in equity. ~~+~~
13 ~~Provided, however, That any such~~ HOWEVER, EXCEPT AS PROVIDED IN
14 SECTION 2A, AN interest, claim, or charge may be preserved and
15 kept effective by filing for record during ~~such 40~~ THE 20-year
16 period FOR MINERAL INTERESTS AND THE 40-YEAR PERIOD FOR OTHER
17 INTERESTS, a notice in writing, ~~duly~~ verified by oath, setting
18 forth the nature of the ~~claims~~ CLAIM. ~~No~~ A disability or
19 lack of knowledge of any kind on the part of anyone ~~shall~~ DOES
20 NOT suspend the running of ~~said 40~~ THE 20-year period FOR MIN-
21 ERAL INTERESTS OR THE 40-YEAR PERIOD FOR OTHER INTERESTS. For
22 the purpose of recording notices of claim for homestead interests
23 the date from which the ~~40~~ 20-year period FOR MINERAL INTERESTS
24 AND THE 40-YEAR PERIOD FOR OTHER INTERESTS shall run shall be the
25 date of recording of the instrument, ~~non-joinder~~ NONJOINER, in
26 which is the basis for ~~such~~ THE claim. ~~Such~~ A notice may be
27 filed for record by the claimant or by any other person acting on

1 behalf of any claimant ~~who is~~ IF 1 OR MORE OF THE FOLLOWING
2 CONDITIONS EXIST:

3 (a) ~~Under~~ THE CLAIMANT IS UNDER a disability. ~~,~~

4 (b) ~~Unable~~ THE CLAIMANT IS UNABLE to assert a claim on his
5 OR HER own behalf. ~~,~~

6 (c) ~~One~~ THE CLAIMANT IS 1 of a class but whose identity
7 cannot be established or is uncertain at the time of filing
8 ~~such~~ THE notice of claim for record.

9 Sec. 6. This act shall be construed to effect the legisla-
10 tive purpose of simplifying and facilitating land title transac-
11 tions by allowing persons dealing with the record title owner, as
12 defined ~~herein~~ IN THIS ACT, to rely on the record title cover-
13 ing a period of not more than ~~40~~ 20 years FOR MINERAL INTERESTS
14 AND 40 YEARS FOR OTHER INTERESTS prior to the date of such deal-
15 ing and to that end to extinguish all claims that affect or may
16 affect the interest ~~thus~~ dealt with, the existence of which
17 claims arises out of or depends upon any act, transaction, event,
18 or omission antedating ~~such 40~~ THE 20-year period FOR MINERAL
19 INTERESTS AND THE 40-YEAR PERIOD FOR OTHER INTERESTS, unless
20 within ~~such 40~~ THE 20-year period FOR MINERAL INTERESTS OR THE
21 40-YEAR PERIOD FOR OTHER INTERESTS a notice of claim as provided
22 in section 3 ~~hereof shall have~~ HAS been ~~duly~~ filed for
23 record. The claims ~~hereby~~ extinguished ~~shall mean~~ BY THIS
24 ACT ARE any and all interests of any nature whatever, however
25 denominated, and whether ~~such~~ THE claims are asserted by a
26 person sui juris or under disability, whether ~~such~~ THE person

1 is within or ~~without~~ OUTSIDE the state, and whether ~~such~~ THE
2 person is natural or corporate, or private or governmental.