

HOUSE BILL No. 4843

May 27, 1997, Introduced by Reps. Freeman, McBryde, Wetters, Mans, Mathieu, Kaza, Martinez, Callahan, Richner, Hale and Gubow and referred to the Committee on Local Government.

A bill to amend 1937 PA 103, entitled

"An act to prescribe certain conditions relative to the execution of instruments entitled to be recorded in the office of the register of deeds,"

by amending section 1 (MCL 565.201).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~No~~ AN instrument by which the title to real
2 estate or any interest ~~therein~~ IN REAL ESTATE is conveyed,
3 assigned, encumbered or otherwise disposed of, ~~executed after~~
4 ~~the effective date of this act~~ shall NOT be received for record
5 by the register of deeds of any county of the state unless the
6 ~~same~~ INSTRUMENT complies with each of the following
7 requirements:

8 (a) The name of each person who executed ~~such~~ THE
9 instrument shall be legibly printed, typewritten, or stamped upon
10 ~~such~~ THE instrument immediately beneath the signature of ~~such~~

1 THE person and the address of each ~~such~~ person shall be
2 printed, typewritten, or stamped upon the face of the instrument.
3 ~~—~~

4 (b) ~~No~~ A discrepancy shall NOT exist between the name of
5 ~~such~~ THE person as it appears either in the body of ~~such~~ THE
6 instrument, the acknowledgment or jurat, as printed, typewritten,
7 or stamped upon ~~such~~ THE instrument by the signature, or in the
8 signature of ~~such~~ THE person. ~~—~~

9 (c) The name of each witness to ~~such~~ THE instrument shall
10 be legibly printed, typewritten, or stamped upon ~~such~~ THE
11 instrument immediately beneath the signature of ~~such~~ THE
12 witness. ~~—~~

13 (d) The name of any notary public whose signature appears
14 upon ~~such~~ THE instrument shall be legibly printed, typewritten,
15 or stamped upon ~~such~~ THE instrument immediately beneath the
16 signature of ~~such~~ THE notary public. ~~—~~

17 (e) Wherever in this act it is required that the name of a
18 person ~~shall~~ be ~~—~~ printed, typewritten, or stamped upon
19 ~~such~~ THE instrument immediately beneath the signature ~~—~~ of
20 ~~such~~ THE person, it is the intent of the legislature to require
21 that ~~such~~ THE signature be written upon ~~such~~ THE instrument
22 directly preceding ~~such~~ THE name so ~~—~~ printed, typewritten,
23 or stamped. ~~—~~. ~~Such~~ THE signature shall not ~~, however,~~ be
24 superimposed upon ~~such~~ THE name so as to render either
25 illegible. ~~Such~~ THE instrument shall ~~, however,~~ be ~~entitled~~
26 ~~to be~~ received for record if ~~such~~ THE name and signature are
27 in the discretion of the register of deeds so placed upon ~~such~~

1 THE instrument as to render the connection between the ~~2~~ NAME
2 AND THE SIGNATURE apparent. Any instrument received and recorded
3 by a register of deeds shall be conclusively presumed to comply
4 with the requirements of this act. The requirements contained in
5 this act shall be cumulative to the requirements imposed by any
6 other act relating to the recording of instruments. ~~7~~

7 (f) The address of each of the grantees in each deed of con-
8 veyance or assignment of real estate, including the street number
9 address if located within territory where such street number
10 addresses are in common use, or, if not, the post office address
11 shall be legibly printed, typewritten, or stamped in ~~such~~ THE
12 instrument. ~~13~~

13 (g) Instruments shall not be typewritten or printed in type
14 smaller than 8 point size, and the size of any sheet in ~~any~~
15 ~~such~~ AN instrument shall not exceed 8 1/2 by 14 inches, and
16 shall be legible and on paper of not less than 13 (17x22--500)
17 pound weight. Nothing in this subdivision shall affect instru-
18 ments executed outside the state or the filing or recording of
19 plats or other instruments, the size of which are regulated by
20 law.

21 (2) THE REGISTER OF DEEDS SHALL NOT RECEIVE FOR RECORD A
22 LIEN ON THE REAL OR PERSONAL PROPERTY OF ANOTHER PERSON UNLESS
23 THE PERSON PRESENTING THE LIEN PRESENTS BOTH OF THE FOLLOWING:

24 (A) A FULL AND FAIR ACCOUNTING OF THE FACTS THAT SUPPORT
25 RECORDING OF THE INSTRUMENT OF ENCUMBRANCE AND SUPPORTING DOCU-
26 MENTATION, AS AVAILABLE.

1 (B) PROOF OF SERVICE THAT ACTUAL NOTICE HAS BEEN GIVEN TO
2 THE RECORDED LANDOWNER OF THE LAND TO WHICH THE INSTRUMENT OF
3 ENCUMBRANCE APPLIES.

4 (3) SUBSECTION (2) DOES NOT APPLY TO ANY OF THE FOLLOWING:

5 (A) A TAX LIEN THAT IS NOT REQUIRED TO BE RECORDED PURSUANT
6 TO THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO
7 211.157.

8 (B) THE FILING OF AN INSTRUMENT OF ENCUMBRANCE AUTHORIZED BY
9 STATE STATUTE OR FEDERAL STATUTE.

10 (C) THE FILING OF A CONSENSUAL AGREEMENT TO ENCUMBER REAL
11 PROPERTY ENTERED INTO BETWEEN THE OWNER OF REAL PROPERTY AND THE
12 PERSON WHO SEEKS TO RECORD AN ENCUMBRANCE. A CONSENSUAL AGREE-
13 MENT INCLUDES BUT IS NOT LIMITED TO A MORTGAGE, LOAN AGREEMENT,
14 LAND CONTRACT, OR OTHER CONSENSUAL OR CONTRACTUAL AGREEMENT OF
15 WHATEVER DESCRIPTION ENTERED INTO BETWEEN THE OWNER OF REAL PROP-
16 ERTY AND THE PERSON WHO SEEKS TO RECORD AN ENCUMBRANCE.

17 (D) THE FILING OF AN ENCUMBRANCE AUTHORIZED IN A FINAL ORDER
18 BY A COURT OF COMPETENT JURISDICTION.

19 (E) A FILING OF A LEVY, ATTACHMENT, LIEN, LIS PENDENS,
20 SHERIFF'S CERTIFICATE, MARSHAL'S CERTIFICATE, OR OTHER INSTRUMENT
21 OF ENCUMBRANCE BY A COMMERCIAL LENDING INSTITUTION. AS USED IN
22 THIS SECTION, "COMMERCIAL LENDING INSTITUTION" MEANS ANY OF THE
23 FOLLOWING:

24 (i) A STATE OR NATIONALLY CHARTERED BANK.

25 (ii) A STATE OR FEDERALLY CHARTERED SAVINGS AND LOAN ASSOCI-
26 ATION OR SAVINGS BANK.

- 1 (iii) A STATE OR FEDERALLY CHARTERED CREDIT UNION.
- 2 (iv) ANY OTHER STATE OR FEDERALLY CHARTERED LENDING
- 3 INSTITUTION OR REGULATED AFFILIATE OR REGULATED SUBSIDIARY OF ANY
- 4 ENTITY LISTED IN THIS SUBPARAGRAPH OR SUBPARAGRAPHS (i) TO
- 5 (iii).
- 6 (v) AN INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN THIS
- 7 STATE PURSUANT TO THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
- 8 500.100 TO 500.8302.
- 9 (vi) A MOTOR VEHICLE FINANCE COMPANY SUBJECT TO THE MOTOR
- 10 VEHICLE SALES FINANCE ACT, 1950 (EX SESS) PA 27, MCL 492.101 TO
- 11 492.141, WITH NET ASSETS IN EXCESS OF \$50,000,000.00.
- 12 (vii) A FOREIGN BANK.
- 13 (viii) A RETIREMENT FUND REGULATED PURSUANT TO STATE LAW, OR
- 14 A PENSION FUND OF A LOCAL UNIT OF GOVERNMENT OR A PENSION FUND
- 15 REGULATED PURSUANT TO FEDERAL LAW WITH NET ASSETS IN EXCESS OF
- 16 \$50,000,000.00.
- 17 (ix) A FEDERAL, STATE, OR LOCAL AGENCY AUTHORIZED BY LAW TO
- 18 HOLD A SECURITY INTEREST IN REAL PROPERTY OR A LOCAL UNIT OF GOV-
- 19 ERNMENT HOLDING A REVERSIONARY INTEREST IN REAL PROPERTY.
- 20 (x) A NONPROFIT TAX EXEMPT ORGANIZATION CREATED TO PROMOTE
- 21 ECONOMIC DEVELOPMENT IN WHICH A MAJORITY OF THE ORGANIZATION'S
- 22 ASSETS ARE HELD BY A LOCAL UNIT OF GOVERNMENT.
- 23 (xi) AN ENTITY WITHIN THE FEDERALLY CHARTERED FARM CREDIT
- 24 SYSTEM.
- 25 (xii) A LICENSEE UNDER THE MORTGAGE BROKERS, LENDERS, AND
- 26 SERVICERS LICENSING ACT, 1987 PA 173, MCL 445.1651 TO 445.1684.

1 (xiii) A HOLDER UNDER THE HOME IMPROVEMENT FINANCE ACT, 1965
2 PA 332, MCL 445.1101 TO 445.1431.
3 (xiv) A RETAIL SELLER UNDER THE RETAIL INSTALLMENT SALES
4 ACT, 1966 PA 224, MCL 445.851 TO 445.873.
5 (xv) A LICENSEE UNDER 1981 PA 125, MCL 493.51 TO 493.81,
6 PERTAINING TO SECONDARY MORTGAGES.
7 (xvi) A LICENSEE UNDER THE CONSUMER FINANCIAL SERVICES ACT,
8 1988 PA 161, MCL 487.2051 TO 487.2072.
9 (xvii) A LICENSEE UNDER THE REGULATORY LOAN ACT OF 1968,
10 1939 PA 21, MCL 493.1 TO 493.26.
11 (xviii) A REGULATED LENDER UNDER THE CREDIT REFORM ACT, 1995
12 PA 162, 445.1851 TO 445.1864.