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BILL ANALYSIS



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Senate Bill 671 (as introduced 11-29-17)

Sponsor: Senator Rick Jones

Committee: Local Government

Date Completed: 1-29-18

CONTENT

The bill would amend Public Act 200 of 1945, which defines a marketable record title to an interest in land, to do the following:

- Allow claims against a marketable record title to be recorded within two years after the bill's effective date.**
- Specify that a conveyance or other title transaction in the chain of title would purport to divest an interest in the property only if certain criteria were met.**
- Expand the information that must be included in a notice of claim if the claim is based on a recorded instrument.**

The bill also would repeal Section 9 of the Act (which allowed claims to be preserved by the filing of a notice of claim before February 1, 1948).

The bill would take effect 90 days after it was enacted.

Marketable Record Title

Under the Act, to possess a marketable record title to an interest in land, a person must have held an unbroken chain of title of record for 20 years for mineral interests and 40 years for other interests. The marketable record title is subject only to claims to that interest and defects of title that are not extinguished or barred by application of the Act, as well as any inherent interest and defects in records forming the chain of record title that are recorded during the 20-year period for mineral interests and the 40-year period for other interests. Under the bill, such claims also could be recorded within two years after the bill's effective date.

(Previously, claims also could be recorded within three years after the effective date of a 1997 amendment to the Act, which established the 20-year holding period for mineral interests.)

Unbroken Chain of Title

Currently, a person is considered to have an unbroken chain of title to an interest in land if the official public records disclose either 1) a conveyance or other title transaction not less than 20 years in the past for mineral interest and 40 years for other interests, which purports to create the interest in that person, or 2) a conveyance or other title transaction within the past 20 years for mineral interest and 40 years for other interests, which 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 considered to have an unbroken chain of title, with nothing in either case appearing of record purporting to divest the person of the interest.

The bill specifies that, for these purposes, a conveyance or other title transaction in the chain of title would purport to divest an interest in the property only if it created the divestment or if it specifically referred by liber and page or other county-assigned unique identifying number to a previously recorded conveyance or other title transaction that created the divestment.

Preservation of Claim

The Act states that 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 that depend 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.

An interest, claim, or charge may be preserved, however, by filing for record during the 20-year period for mineral interests and the 40-year period for other interests, a written notice, verified by oath, setting forth the nature of the claim. Under the bill, an interest, claim, or charge also could be preserved by filing for record within two years of the bill's effective date.

Notice of Claim Requirements

Under the Act, to be effective and entitled to be recorded, a notice of claim must contain an accurate and full description of all the land affected by the notice, and the description must be set forth in particular terms.

If the claim is founded on a recorded instrument, however, the description may be the same as that contained in the recorded instrument. The bill provides instead that, if the claim were founded on a recorded instrument, the notice also would have to state the liber and page or other county-assigned unique identifying number of the recorded instrument the claim was founded on. The failure to include the liber and page or other county-assigned unique identifying number would render the recording ineffective and the claim unpreserved. The notice would have to contain all of the following:

- The claimant's name, mailing address, and signature.
- The interest claimed to be preserved.
- The liber and page or other unique identification number of the instrument creating the interest to be preserved.
- The legal description of the real property affected by the claimed interest.
- An acknowledgement in the form required by the Uniform Recognition of Acknowledgements Act, and Section 27 of the Michigan Notary Public Act.
- The drafter's name and address.
- An address to which the document could be returned.

(The Uniform Recognition of Acknowledgements Act establishes the recognition to be given to acknowledgments and notarial acts outside the State. Section 27 of the Michigan Notary Public Act requires a notary to place certain information on each record upon which he or she performs a notarial act.)

MCL 565.101 et al.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.