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## BILL ANALYSIS



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Senate Bill 671 (as enacted)  
Sponsor: Senator Rick Jones  
Senate Committee: Local Government  
House Committee: Local Government

**PUBLIC ACT 572 of 2018**

Date Completed: 2-4-19

**CONTENT**

**The bill amends Public Act 200 of 1945 (which defines a marketable record title to an interest in land) to do the following:**

- **Specify that, except as to mineral interests, a conveyance or other title transaction in the chain of title purports to divest an interest in the property only if it creates the divestment or specifically refers to a previously recorded conveyance or other title transaction that created the divestment.**
- **Specify information that a notice of claim must contain and, if a notice of claim is based on a recorded instrument, require the notice to contain particular information about that instrument.**
- **Allow claims against a marketable record title to be recorded within two years after the bill's effective date.**
- **Specify that the Act does not affect any oil and gas lease, or other interest in oil or gas, owned by a person other than the owner of the surface, or any storage agreement or other interest in subsurface storage formations owned by a person other than the owner of the surface.**

The bill repeals 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 will take effect on March 29, 2019.

**Chain of Title; Divestment of Interest**

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 interests and defects in records forming the chain of record title that are recorded during the 20-year period for mineral interests or the 40-year period for other interests.

A person is considered to have an unbroken chain of title to an interest in land if the official public records disclose either of the following:

- A conveyance or other title transaction not less than 20 years in the past for mineral interests and 40 years for other interests, that purports to create the interest in that person, with nothing appearing of record purporting to divest the person of the interest.

- A conveyance or other title transaction within the past 20 years for mineral interests and 40 years for other interests, that 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 appearing of record purporting to divest the person of the interest.

The bill specifies that, for these purposes, except as to mineral interests, a conveyance or other title transaction in the chain of title purports to divest an interest in the property only if it creates the divestment or if it specifically refers 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, or the 40-year period for other interests.

A person may preserve an interest, claim, or charge, however, by filing for record during the 20-year period for mineral interests or the 40-year period for other interests, a written notice, verified by oath, setting forth the nature of the claim.

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.

Currently, 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 deletes this provision. Under the bill, if the claim is founded on a recorded instrument, in addition to the description of all the land affected, the notice must state the liber and page or other county-assigned unique identifying number of the recorded instrument the claim is founded on. The failure to include the liber and page or other county-assigned unique identifying number renders the recording ineffective and the claim unpreserved. The notice must contain all of the following:

- The claimant's name, mailing address, and signature.
- The interest claimed to be preserved.
- Except as to mineral interests, 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 can be returned.

(The Uniform Recognition of Acknowledgements Act provides for the recognition to be given to acknowledgments and notarial acts outside the State, and establishes requirements for certification of an acknowledgment. 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.)

### Two-Year Period for Filing

Under the bill, a marketable record title is subject to interests recorded within two years after

the bill's effective date, in addition to the 20-year period for recording mineral interests and the 40-year for recording other interests. A person may preserve an interest, claim, or charge by filing for record a notice, as required for filing a notice of a claim during the 20- or 40-year period, within two years after the bill's effective date.

#### Oil & Gas Leases, Interests, & Storage Agreements

Under the bill, Public Act 200 of 1945 does not affect any oil and gas lease, or other interest in oil or gas, owned by a person other than the owner of the surface, or any storage agreement or other interest in subsurface storage formations owned by a person other than the owner of the surface.

MCL 565.101 et al.

Legislative Analyst: Drew Krogulecki

#### **FISCAL IMPACT**

The bill will 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.