

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 671

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 sections 1, 2, 3, 4, and 5 (MCL 565.101, 565.102, 565.103, 565.104, and 565.105), sections 1, 2, and 3 as amended by 1997 PA 154; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. Any person, ~~having~~**THAT HAS** the legal capacity to own
2 land in this state, ~~who~~**THAT** has an unbroken chain of title of
3 record to any interest in land for 20 years for mineral interests
4 and 40 years for other interests, ~~shall~~**IS** at the end of the

1 applicable period ~~be~~ considered to have a marketable record title
2 to that interest, subject only to claims to that interest and
3 defects of title as are not extinguished or barred by application
4 of this act and subject also to any interests and defects as are
5 inherent in the provisions and limitations contained in the
6 muniments of which the chain of record title is formed and ~~which~~
7 ~~have been~~ **THAT ARE** recorded within ~~3~~ **2** years after the effective
8 date of the amendatory act that added section ~~1a~~ **2 (2)** or during the
9 20-year period for mineral interests and the 40-year period for
10 other interests. However, a person ~~shall~~ **IS** not ~~be~~ considered to
11 have a marketable record title by reason of this act ~~—~~ if the land
12 in which the interest exists is in the hostile possession of
13 another.

14 Sec. 2. **(1)** A person is considered to have an unbroken chain
15 of title to an interest in land as provided in section 1 ~~when~~ **IF**
16 the official public records disclose either of the following:

17 (a) A conveyance or other title transaction not less than 20
18 years in the past for mineral interests and 40 years for other
19 interests, which conveyance or other title transaction purports to
20 create the interest in that person, with nothing appearing of
21 record purporting to divest that person of the purported interest.

22 (b) A conveyance or other title transaction not less than 20
23 years in the past for mineral interests and 40 years for other
24 interests, which conveyance or other title transaction purports to
25 create the interest in some other person and other conveyances or
26 title transactions of record by which the purported interest has
27 become vested in the person first referred to in this section, with

1 nothing appearing of record purporting to divest the person first
2 referred to in this section of the purported interest.

3 (2) FOR PURPOSES OF THIS SECTION, EXCEPT AS TO MINERAL
4 INTERESTS, A CONVEYANCE OR OTHER TITLE TRANSACTION IN THE CHAIN OF
5 TITLE PURPORTS TO DIVEST AN INTEREST IN THE PROPERTY ONLY IF IT
6 CREATES THE DIVESTMENT OR IF IT SPECIFICALLY REFERS BY LIBER AND
7 PAGE OR OTHER COUNTY-ASSIGNED UNIQUE IDENTIFYING NUMBER TO A
8 PREVIOUSLY RECORDED CONVEYANCE OR OTHER TITLE TRANSACTION THAT
9 CREATED THE DIVESTMENT.

10 Sec. 3. (1) Marketable title ~~shall be~~ **IS** held by a person and
11 ~~shall be~~ **IS** taken by his or her successors in interest free and
12 clear of any and all interests, claims, and charges ~~whatsoever~~ the
13 existence of which depends in whole or in part ~~upon~~ **ON** any act,
14 transaction, event, or omission that occurred ~~prior to~~ **BEFORE** the
15 20-year period for mineral interests, and the 40-year period for
16 other interests, and all **SUCH** interests, claims, and charges are
17 ~~hereby declared to be null and void~~ and of no effect at law or in
18 equity. However, an interest, claim, or charge may be preserved and
19 kept effective by filing for record within ~~3~~ **2** years after the
20 effective date of the amendatory act that added section ~~1a-2~~ **(2)** or
21 during the 20-year period for mineral interests and the 40-year
22 period for other interests, a notice in writing, verified by oath,
23 setting forth the nature of the claim **IN THE MANNER REQUIRED BY**
24 **SECTION 5.**

25 (2) A disability or lack of knowledge of any kind on the part
26 of anyone does not suspend the running of the 20-year period for
27 mineral interests or the 40-year period for other interests.

1 (3) For the purpose of recording notices of claim for
 2 homestead interests, the date from which the 20-year period for
 3 mineral interests and the 40-year period for other interests ~~shall~~
 4 ~~run shall be~~ **RUN IS** the date of recording of the instrument ~~7~~
 5 ~~nonjoinder, in which is~~ **THAT CONTAINS** the basis for the claim.

6 (4) A notice **UNDER THIS SECTION** may be filed for record by the
 7 claimant or by any other person acting on behalf of any claimant if
 8 1 or more of the following conditions exist:

9 (a) The claimant is under a disability.

10 (b) The claimant is unable to assert a claim on his or her own
 11 behalf.

12 (c) The claimant is 1 of a class but whose identity cannot be
 13 established or is uncertain at the time of filing the notice of
 14 claim for record.

15 Sec. 4. (1) This act ~~shall~~ **MUST** not be applied to ~~bar~~ **DO** any
 16 **OF THE FOLLOWING:**

17 (A) **BAR A** lessor or his **OR HER** successor as reversioner of his
 18 **OR HER** right to possession on the expiration of ~~any~~ **A** lease or ~~any~~
 19 **A** lessee or his **OR HER** successor of his **OR HER** rights in and to ~~any~~
 20 **A** lease. ~~7 or to bar~~

21 (B) **BAR** any interest of a mortgagor or a mortgagee or interest
 22 in the nature of that of a mortgagor or mortgagee until after ~~such~~
 23 **THE** instrument under which ~~such interests are~~ **THE INTEREST IS**
 24 claimed ~~shall have~~ **HAS** become due and payable, except ~~where such~~ **IF**
 25 **THE** instrument has no due date expressed, ~~where such~~ **IF THE**
 26 instrument has been executed by a railroad, railroad bridge,
 27 tunnel, or union depot company, or ~~any~~ **A** public utility or public

1 service company. ~~; or to bar~~

2 (C) **BAR** or extinguish ~~any~~**AN** easement or interest in the
3 nature of an easement, the existence of which is clearly observable
4 by physical evidences of its use. ~~; or to bar~~

5 (D) **BAR** or extinguish ~~any~~**AN** easement or interest in the
6 nature of an easement, or any rights appurtenant ~~thereto~~**TO THE**
7 **EASEMENT OR INTEREST** granted, excepted, or reserved by a recorded
8 instrument creating ~~such~~**THE** easement or interest, including any
9 rights for future use, if the existence of ~~such~~**THE** easement or
10 interest is evidenced by the location beneath, ~~upon~~**ON**, or above
11 any part of the land described in ~~such~~**THE** instrument of ~~any~~**A**
12 pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole,
13 tower, or other physical facility and whether or not the existence
14 of ~~such~~**THE** facility is observable, by reason of failure to file
15 the notice herein required **BY THIS ACT**. ~~Nor shall this act be~~
16 ~~deemed to~~

17 (2) **THIS ACT DOES NOT** affect any right, title, or interest in
18 land owned by the United States, ~~nor~~**OR** any right, title, or
19 interest in any land owned by ~~the~~**THIS** state, ~~of Michigan,~~ or by
20 any department, commission, or political subdivision thereof.

21 (3) **THIS ACT DOES NOT AFFECT ANY OIL AND GAS LEASE, OR OTHER**
22 **INTEREST IN OIL OR GAS, OWNED BY A PERSON OTHER THAN THE OWNER OF**
23 **THE SURFACE, OR ANY STORAGE AGREEMENT OR OTHER INTEREST IN**
24 **SUBSURFACE STORAGE FORMATIONS OWNED BY A PERSON OTHER THAN THE**
25 **OWNER OF THE SURFACE.**

26 Sec. 5. (1) To be effective and to be entitled to record, ~~the~~
27 **A notice above referred to shall****OF CLAIM UNDER SECTION 3 MUST**

1 contain an accurate and full description of all the land affected
2 by ~~such~~ **THE** notice, which description ~~shall~~ **MUST** be set forth in
3 particular terms and not by general inclusions. ~~, but~~ **HOWEVER,**
4 **EXCEPT AS TO MINERAL INTERESTS,** if ~~said~~ **THE** claim is founded upon
5 **ON** a recorded instrument, ~~then the description in such notice may~~
6 ~~be the same as that contained in such recorded instrument. Such~~
7 **MUST ALSO STATE THE LIBER AND PAGE OR OTHER COUNTY-ASSIGNED UNIQUE**
8 **IDENTIFYING NUMBER OF THE RECORDED INSTRUMENT THE CLAIM IS FOUNDED**
9 **ON. THE FAILURE TO INCLUDE THE LIBER AND PAGE OR OTHER COUNTY-**
10 **ASSIGNED UNIQUE IDENTIFYING NUMBER RENDERS THE RECORDING**
11 **INEFFECTIVE AND THE CLAIM UNPRESERVED. THE NOTICE MUST CONTAIN ALL**
12 **OF THE FOLLOWING:**

13 (A) THE CLAIMANT'S NAME.

14 (B) THE CLAIMANT'S MAILING ADDRESS.

15 (C) THE INTEREST CLAIMED TO BE PRESERVED.

16 (D) EXCEPT AS TO MINERAL INTERESTS, THE LIBER AND PAGE OR
17 OTHER UNIQUE IDENTIFICATION NUMBER OF THE INSTRUMENT CREATING THE
18 INTEREST TO BE PRESERVED.

19 (E) THE LEGAL DESCRIPTION OF THE REAL PROPERTY AFFECTED BY THE
20 CLAIMED INTEREST.

21 (F) THE CLAIMANT'S SIGNATURE.

22 (G) AN ACKNOWLEDGMENT IN THE FORM REQUIRED BY THE UNIFORM
23 RECOGNITION OF ACKNOWLEDGMENTS ACT, 1969 PA 57, MCL 565.261 TO
24 565.270, AND SECTION 27 OF THE MICHIGAN NOTARY PUBLIC ACT, 2003 PA
25 238, MCL 55.287.

26 (H) THE DRAFTER'S NAME AND ADDRESS.

27 (I) AN ADDRESS TO WHICH THE DOCUMENT CAN BE RETURNED.

1 (2) A notice ~~shall~~ **OF CLAIM UNDER SECTION 3 MUST** be filed for
2 record in the register of deeds office of the county or counties
3 where the land described ~~therein~~ **IN THE NOTICE** is situated.
4 **LOCATED.** The register of deeds of each county shall accept all ~~such~~
5 notices **OF CLAIM UNDER SECTION 3 THAT ARE** presented to ~~him~~ ~~which~~
6 **THE REGISTER OF DEEDS THAT** describe land located in the county in
7 which ~~he~~ **THE REGISTER OF DEEDS** serves and shall enter and record
8 full copies ~~thereof~~ **OF THE NOTICES** in the same way that deeds and
9 other instruments are recorded. ~~and each~~

10 (3) A register ~~shall be~~ **OF DEEDS IS** entitled to charge the
11 same fees for the recording ~~thereof~~ **OF A NOTICE UNDER SECTION 3** as
12 are charged for recording deeds. In indexing ~~such~~ ~~notices in his~~
13 ~~office each~~ **UNDER SECTION 3, A** register **OF DEEDS** shall enter ~~such~~
14 **THE** notices under the grantee indexes of deeds under the names of
15 the claimants appearing in ~~such~~ **THE** notices.

16 Enacting section 1. Section 9 of 1945 PA 200, MCL 565.109, is
17 repealed.

18 Enacting section 2. This amendatory act takes effect 90 days
19 after the date it is enacted into law.