

HOUSE BILL No. 4297

March 2, 2017, Introduced by Reps. Love, Byrd, Hammoud, Kahle, Noble, Marino, Scott, Neeley, Vaupel, Lucido and Geiss and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 248b (MCL 750.248b), as added by 2011 PA 206.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 248b. (1) A person who falsely makes, alters, forges, or
2 counterfeits a deed, a discharge of mortgage, or a power or letter
3 of attorney or other document that affects an interest in real
4 property with intent to injure or defraud another person is guilty
5 of a felony punishable by imprisonment for not more than 14 years.

6 (2) This section does not apply to a scrivener's error.

7 (3) The venue in a prosecution under this section may be in
8 the county in which the forgery was performed, ~~+~~in a county in
9 which the false, altered, forged, or counterfeit document is
10 uttered and published with intent to injure or defraud, ~~+~~or in the
11 county in which the rightful property owner resides.

1 (4) In proceedings that result in a conviction under this
2 section or for any lesser included offense, the circuit court shall
3 enter an order stating that the false, altered, forged, or
4 counterfeit document is invalid and require that a certified copy
5 of the court order with the invalid document, if not previously
6 recorded, be attached and recorded in the office of the register of
7 deeds of the county where the subject property or part of the
8 property is located, as provided in section 2935 of the revised
9 judicature act of 1961, 1961 PA 236, MCL 600.2935. If the invalid
10 document has previously been recorded, the prosecutor shall provide
11 the circuit court with the liber and page number or unique
12 identifying reference number of the invalid document, which ~~shall~~
13 **MUST** be included in the order. The register of deeds shall make
14 reference to the liber and page number or unique identifying
15 reference number of the invalid document in the index of the
16 recorded documents. Any recording fees incurred under this
17 subsection ~~shall~~ **MUST** be paid as ordered by the court.

18 **(5) IF THE REGISTER OF DEEDS OR THE OFFICE OF THE GREAT SEAL**
19 **DETERMINES AND TESTIFIES THAT A NOTARY PUBLIC ATTESTATION AND**
20 **SIGNATURE AFFIXED TO A DOCUMENT OFFERED AS EVIDENCE IN A**
21 **PROSECUTION UNDER THIS SECTION IS 1 OF THE FOLLOWING, IT SHALL BE**
22 **PRESUMED THAT THE DOCUMENT IS FALSE, COUNTERFEIT, OR FRAUDULENT:**

23 **(A) THE SECRETARY OF STATE HAS NO RECORD OF APPOINTING THE**
24 **LISTED NOTARY PUBLIC.**

25 **(B) THE NOTARY PUBLIC WAS APPOINTED A NOTARY PUBLIC, BUT THE**
26 **NOTARY PUBLIC TESTIFIES THAT HE OR SHE DID NOT WITNESS THE SIGNING**
27 **OF THE DOCUMENT IN QUESTION.**

1 (6) THE PRESUMPTION DESCRIBED IN SUBSECTION (5) MAY BE
2 REBUTTED BY CLEAR AND CONVINCING EVIDENCE.

3 Enacting section 1. This amendatory act takes effect 90 days
4 after the date it is enacted into law.