

HOUSE BILL NO. 5029

September 20, 2023, Introduced by Reps. McKinney, Coffia, Rheingans, Brabec, Wilson, Morgan, Scott, Liberati, Brixie, O'Neal, Skaggs, Edwards, Young, Hope, Martus, Hill, Roth, Schmaltz and Aiyash and referred to the Committee on Economic Development and Small Business.

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 section 4 (MCL 565.104), as amended by 2022 PA 235.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) This act must not be applied to do any of the
2 following:

3 (a) Bar a lessor or a lessor's successor as reversioner of the
4 lessor's right to possession on the expiration of a lease or a
5 lessee or the lessee's successor of the lessee's rights in and to a
6 lease.

7 (b) Bar any interest of a mortgagor or a mortgagee or interest
8 in the nature of that of a mortgagor or mortgagee until after the
9 instrument under which the interest is claimed has become due and
10 payable, except if the instrument has no due date expressed, or if
11 the instrument has been executed by a railroad, railroad bridge,
12 tunnel, union depot company, or public utility or public service
13 company.

14 (c) Bar or extinguish an easement or interest in the nature of
15 an easement, the existence of which is clearly observable by
16 physical evidences of its use.

17 (d) Bar or extinguish an easement or interest in the nature of
18 an easement, or any rights appurtenant to the easement or interest
19 granted, excepted, or reserved by a recorded instrument creating
20 the easement or interest, including any rights for future use, due
21 to a failure to file the notice required under this act, if the
22 easement, observable or not, is for any of the following:

23 (i) The operation, construction, maintenance, improvement,
24 removal, replacement, or protection of a pipe, valve, road, wire,
25 cable, conduit, duct, sewer, track, pole, tower, or other physical
26 facility, whether or not the existence of the facility is
27 observable.

28 (ii) Flowage rights for an impoundment that exists as part of a
29 federally licensed hydroelectric facility.

1 (iii) The management of vegetation within the easement.

2 (e) Bar or extinguish any land or resource use restriction,
3 including any of the following:

4 (i) An environmental restrictive covenant or other recorded
5 instrument if the restrictive covenant or other recorded instrument
6 specifically cites the state or federal environmental statute that
7 is the basis for the restriction, including any of the following:

8 (A) The natural resources and environmental protection act,
9 1994 PA 451, MCL 324.101 to 324.90106.

10 (B) The resource conservation and recovery act of 1976, Public
11 Law 94-580.

12 (C) The comprehensive environmental response, compensation,
13 and liability act of 1980, 42 USC Chapter 103.

14 (ii) A conservation easement as that term is defined in section
15 2140 of the natural resources and environmental protection act,
16 1994 PA 451, MCL 324.2140.

17 (iii) Any environmental land or resource use restriction
18 recorded by a public utility as that term is defined in section 1
19 of 1929 PA 69, MCL 460.501, or by an independent transmission
20 company as that term is defined in section 2 of the electric
21 transmission line certification act, 1995 PA 30, MCL 460.562, on
22 real property in which the public utility or independent
23 transmission company had an interest when recorded.

24 (iv) **A restrictive covenant recorded by the Michigan state**
25 **housing development authority created under the state housing**
26 **development authority act of 1966, 1966 PA 346, MCL 125.1401 to**
27 **125.1499c.**

28 (2) This act does not affect any right, title, or interest in
29 land owned by the United States, this state, or any department,

1 commission, or political subdivision of this state.

2 (3) This act does not affect any oil and gas lease, or other
3 interest in oil or gas, owned by a person other than the owner of
4 the surface, or any storage agreement or other interest in
5 subsurface storage formations owned by a person other than the
6 owner of the surface.

7 Enacting section 1. This amendatory act does not take effect
8 unless Senate Bill No. _____ or House Bill No. 5033 (request no.
9 03178'23) of the 102nd Legislature is enacted into law.