

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4640

A bill to amend 1915 PA 123, entitled

"An act to provide for the recording and use in evidence of affidavits affecting real property; and to provide a penalty for the making of false affidavits,"

by amending section 1a (MCL 565.451a).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1a. An affidavit stating facts relating to any of the
2 following matters ~~which~~**THAT** may affect the title to real property
3 in this state **AND** made by any person having knowledge of the facts
4 ~~or by any person~~**AND** competent to testify concerning ~~such~~**THOSE**
5 facts in open court ~~—~~may be recorded in the office of the register
6 of deeds of the county where the real property is situated:
7 (a) Birth, age, sex, marital status, death, name, residence,
8 identity, capacity, relationship, family history, heirship,
9 homestead status and service in the armed forces of parties named
10 in deeds, wills, mortgages and other instruments affecting real

1 property. †

2 (b) Knowledge of the happening of any condition or event ~~which~~
3 **THAT** may terminate an estate or interest in real property. †

4 (c) Knowledge of surveyors ~~duly~~ registered under the laws of
5 this state with respect to the existence and location of monuments
6 and physical boundaries, such as fences, streams, roads, and rights
7 of way of real property. †

8 (d) Knowledge of ~~such registered~~ surveyors **REGISTERED UNDER**
9 **THE LAWS OF THIS STATE** reconciling conflicting and ambiguous
10 descriptions in conveyances with descriptions in a regular chain of
11 title. †

12 (e) Knowledge of facts incident to possession or the actual,
13 open, notorious, and adverse possession of real property. † ~~or~~

14 (f) Knowledge of the purchaser, or ~~in the case of~~ **IF THE**
15 **PURCHASER IS** a corporation, of its president, vice president,
16 secretary, or other ~~duly~~ authorized representative acting in a
17 fiduciary or representative capacity, of real property sold upon
18 foreclosure or conveyed in lieu of foreclosure of a trust mortgage
19 or deed of trust securing an issue of bonds or other evidences of
20 indebtedness, or of any mortgage, land contract, or other security
21 instrument held by a fiduciary or other representative, as to the
22 authority of ~~such~~ **THE** purchaser to purchase the real property and
23 as to the terms and conditions upon which the real property is to
24 be held and disposed of.

25 **(G) KNOWLEDGE OF A PERSON WITH RESPECT TO AN UNRECORDED**
26 **MORTGAGE IF THE AFFIDAVIT RECITES THE NAMES OF THE PARTIES TO THE**
27 **UNRECORDED MORTGAGE AND IS ACCOMPANIED BY A COPY OF THE UNRECORDED**

1 MORTGAGE. THE AFFIDAVIT SHALL BE INDEXED AS PROVIDED IN SECTION 28
2 OF 1846 RS 65, MCL 565.28, UNDER THE NAME OF THE AFFIANT. THIS
3 SUBDIVISION APPLIES TO ANY AFFIDAVIT REGARDING A MORTGAGE WITHIN
4 ITS SCOPE, EVEN IF THE AFFIDAVIT WAS RECORDED BEFORE THE EFFECTIVE
5 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION. HOWEVER, AN
6 AFFIDAVIT RECORDED ON OR AFTER THE EFFECTIVE DATE OF THE AMENDATORY
7 ACT THAT ADDED THIS SUBDIVISION SHALL ALSO BE INDEXED UNDER THE
8 NAMES OF THE PARTIES TO THE MORTGAGE. FURTHERMORE, A COPY OF AN
9 UNRECORDED MORTGAGE AND AFFIDAVIT SHALL NOT BE RECEIVED AND
10 RECORDED BY THE REGISTER OF DEEDS ON OR AFTER THE EFFECTIVE DATE OF
11 THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION UNLESS THE AFFIDAVIT
12 AND THE COPY OF THE MORTGAGE ARE LEGIBLE AND THE AFFIDAVIT STATES
13 ALL OF THE FOLLOWING:

14 (i) THE NAMES OF THE MORTGAGOR AND MORTGAGEE.

15 (ii) A LEGAL DESCRIPTION OF THE PROPERTY, THE PROPERTY TAX
16 IDENTIFICATION NUMBER, AND, IF APPLICABLE, THE ADDRESS OF THE
17 PROPERTY.

18 (iii) THAT THE ORIGINAL MORTGAGE HAS BEEN LOST OR DESTROYED.

19 (iv) THAT THE ORIGINAL MORTGAGE WAS SIGNED BY THE PARTIES TO
20 THE UNRECORDED MORTGAGE.

21 (v) THAT, TO THE BEST OF THE AFFIANT'S KNOWLEDGE, THE ORIGINAL
22 MORTGAGE WAS DELIVERED FROM THE MORTGAGOR TO THE MORTGAGEE.

23 (vi) THAT THE AFFIANT DID 1 OF THE FOLLOWING, AS APPLICABLE:

24 (A) MAILED A COPY OF THE AFFIDAVIT AND UNRECORDED MORTGAGE BY
25 FIRST-CLASS CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED,
26 TO THE MORTGAGOR AT THE MORTGAGOR'S ADDRESS LAST KNOWN TO THE
27 AFFIANT. ACTUAL DELIVERY OF THAT MAIL OR THE RETURN OF A SIGNED

1 RETURN RECEIPT IS NOT REQUIRED FOR THE PURPOSES OF THIS SUB-
2 SUBPARAGRAPH.

3 (B) PERSONALLY SERVED A COPY OF THE AFFIDAVIT AND UNRECORDED
4 MORTGAGE ON THE MORTGAGOR.

5 Enacting section 1. This amendatory act does not take effect
6 unless House Bill No. 4638 of the 97th Legislature is enacted into
7 law.