

# HOUSE BILL No. 4817

June 10, 2003, Introduced by Reps. Farhat, Stahl, Brandenburg, Ward, Sheltroun, Gillard, Elkins, Emmons, Pastor, Casperson, Gaffney, Nofs, Newell, Garfield, Milosch, DeRoche and Wenke and referred to the Committee on Commerce.

A bill to amend 1846 RS 65, entitled

"Of alienation by deed, and the proof and recording of conveyances, and the canceling of mortgages,"

by amending sections 41 and 44 (MCL 565.41 and 565.44).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 41. A mortgagee or ~~his~~ **the** personal representative,  
2 successor, or assign **of the mortgagee**, within ~~90~~ 7 days after a  
3 mortgage has been paid or otherwise satisfied and discharged,  
4 shall prepare ~~and file~~ a discharge ~~thereof~~ **of the mortgage**,  
5 **file the discharge** with the register of deeds for the county  
6 where the mortgaged property is located, and pay the fee for  
7 recording the discharge.

8       Sec. 44. If ~~any mortgagee, or his~~ **a mortgagee or the**  
9 personal representative or assignee **of the mortgagee**, ~~as the~~  
10 ~~ease may be,~~ after full performance of the condition of the  
11 mortgage, whether before or after a breach ~~thereof~~ **of the**

1 mortgage, or, if the ~~same be~~ mortgage is entirely due, ~~and~~  
2 payable, after a tender of the whole amount ~~so due and payable~~  
3 thereon, shall, for the space of **due, within** 7 days after being  
4 ~~thereto~~ requested, and after tender of ~~his~~ **the mortgagee's**  
5 reasonable charges, ~~refuse or neglect~~ **refuses or neglects** to  
6 discharge the ~~same~~ mortgage as provided in this chapter ~~,~~ or  
7 to execute and acknowledge a certificate of discharge or release  
8 ~~thereof, he shall be~~ **of the mortgage, the mortgagee is** liable  
9 to the mortgagor, ~~his~~ **or the mortgagor's** heirs or assigns, ~~in~~  
10 ~~the sum of 100 dollars~~ **for \$1,000.00** damages. ~~,~~ and also for  
11 **The mortgagee is also liable for** all actual damages ~~,~~ ~~occasioned~~  
12 ~~by such~~ **caused by the** neglect or refusal ~~,~~ to the person who  
13 ~~shall perform~~ **performs** the condition of ~~such~~ **the** mortgage, or  
14 ~~make such~~ **makes the** tender to the mortgagee, ~~his~~ **or the**  
15 **mortgagee's** heirs or assigns, or to ~~any one~~ **anyone** who ~~may~~  
16 ~~have~~ **has** an interest in the mortgaged premises. ~~,~~ ~~to~~ **Damages**  
17 **under this section may** be recovered in an action ~~on the case, or~~  
18 ~~be awarded by a court of equity upon a bill filed~~ **for money**  
19 **damages or** to procure a discharge ~~,~~ or ~~a~~ release of ~~such~~  
20 **the** mortgage. ~~,~~ ~~with~~ **The court may, in its discretion, award**  
21 double costs ~~,~~ ~~in the discretion of the court~~ **in an action**  
22 **under this section.**