

# HOUSE BILL No. 5257

January 19, 2012, Introduced by Reps. Barnett and Pettalia and referred to the Committee on Local, Intergovernmental, and Regional Affairs.

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 competent to testify concerning ~~such~~**THOSE** facts  
5 in open court ~~—~~may be recorded in the office of the register of  
6 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

1 in deeds, wills, mortgages and other instruments affecting real  
2 property.†

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

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

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

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

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

26 **(G) KNOWLEDGE OF A PERSON WITH RESPECT TO AN UNRECORDED**  
27 **CONVEYANCE, AS DEFINED IN SECTION 35 OF 1846 RS 65, MCL 565.35,**

1 ACCOMPANIED BY A COPY OF THE UNRECORDED CONVEYANCE. AN AFFIDAVIT  
2 UNDER THIS SUBDIVISION SHALL PROVIDE, AT A MINIMUM, ALL OF THE  
3 FOLLOWING INFORMATION:

4 (i) THE BASIS OF THE AFFIANT'S KNOWLEDGE OF THE TRANSACTION  
5 GIVING RISE TO THE ORIGINAL INSTRUMENT.

6 (ii) THAT THE ORIGINAL INSTRUMENT HAS BEEN LOST OR DESTROYED.

7 (iii) IF THE AFFIDAVIT IS RECORDED ON OR AFTER THE EFFECTIVE  
8 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, THAT TO THE  
9 BEST OF AFFIANT'S KNOWLEDGE DELIVERY FROM THE GRANTOR TO THE  
10 GRANTEE WAS EFFECTUATED.

11 Enacting section 1. This amendatory act does not take effect  
12 unless Senate Bill No.\_\_\_\_ or House Bill No. 5258(request no.  
13 02910'11) of the 96th Legislature is enacted into law.