

# HOUSE BILL NO. 5366

November 14, 2023, Introduced by Reps. Brixie and Skaggs and referred to the Committee on Judiciary.

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 section 25 (MCL 565.25), as amended by 2008 PA 357.

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

1           Sec. 25. (1) Except as otherwise provided in subsection (2),  
2 the recording of a levy, attachment, lien, lis pendens, sheriff's  
3 certificate, marshal's certificate, or other instrument of  
4 encumbrance does not perfect the instrument of encumbrance unless  
5 both of the following are found by a court of competent

1 jurisdiction to have accompanied the instrument when it was  
2 delivered to the register under section 24(1) of this chapter:

3 (a) A full and fair accounting of the facts that support  
4 recording of the instrument of encumbrance and supporting  
5 documentation, as available.

6 (b) Proof of service that actual notice has been given to the  
7 recorded landowner of the land to which the instrument of  
8 encumbrance applies.

9 (2) Subsection (1) does not apply to any of the following:

10 (a) A tax lien that is not required to be recorded ~~pursuant to~~  
11 **under** the general property tax act, 1893 PA 206, MCL 211.1 to  
12 211.155.

13 (b) The filing of an instrument of encumbrance **that is**  
14 authorized by **a** state statute or federal statute.

15 (c) The filing of a consensual agreement to encumber real  
16 property **that is** entered into between the owner of real property  
17 and the person ~~who~~**that** seeks to record an encumbrance. A  
18 consensual agreement includes, but is not limited to, a mortgage,  
19 loan agreement, land contract, or other consensual or contractual  
20 agreement of whatever description entered into between the owner of  
21 real property and the person ~~who~~**that** seeks to record an  
22 encumbrance.

23 (d) The filing of an encumbrance **that is** authorized in a final  
24 order by a court of competent jurisdiction.

25 (e) A filing of a levy, attachment, lien, lis pendens,  
26 sheriff's certificate, marshal's certificate, or other instrument  
27 of encumbrance by a commercial lending institution. As used in this  
28 ~~section,~~**subdivision**, "commercial lending institution" means any of  
29 the following:

1 (i) A state or nationally chartered bank.

2 (ii) A state or federally chartered savings and loan  
3 association or savings bank.

4 (iii) A state or federally chartered credit union.

5 (iv) Any other state or federally chartered lending institution  
6 or regulated affiliate or regulated subsidiary of any entity listed  
7 in this subparagraph or subparagraphs (i) to (iii).

8 (v) An insurance company **that is** authorized to do business in  
9 this state ~~pursuant to~~**under** the insurance code of 1956, 1956 PA  
10 218, MCL 500.100 to 500.8302.

11 (vi) A motor vehicle finance company **that is** subject to the  
12 motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101  
13 to ~~492.141,~~ **492.137a**, with net assets in excess of \$50,000,000.00.

14 (vii) A foreign bank.

15 (viii) A retirement fund regulated ~~pursuant to~~**under** state law,  
16 or a pension fund of a local unit of government or a pension fund  
17 regulated ~~pursuant to~~**under** federal law with net assets in excess  
18 of \$50,000,000.00.

19 (ix) A federal, state, or local agency **that is** authorized by  
20 law to hold a security interest in real property or a local unit of  
21 government holding a reversionary interest in real property.

22 (x) A nonprofit tax exempt organization **that is** created to  
23 promote economic development in which a majority of the  
24 organization's assets are held by a local unit of government.

25 (xi) An entity within the federally chartered farm credit  
26 system.

27 (xii) A licensee under the mortgage brokers, lenders, and  
28 servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

1 (xiii) A holder under the home improvement finance act, 1965 PA  
2 332, MCL 445.1101 to 445.1431.

3 (xiv) A retail seller under the retail installment sales act,  
4 1966 PA 224, MCL 445.851 to 445.873.

5 (xv) A licensee under the secondary mortgage loan act, 1981 PA  
6 125, MCL 493.51 to 493.81, pertaining to secondary mortgages.

7 (xvi) A licensee under the consumer financial services act,  
8 1988 PA 161, MCL 487.2051 to 487.2072.

9 (xvii) A licensee under the regulatory loan act, 1939 PA 21, MCL  
10 493.1 to 493.24.

11 (xviii) A regulated lender under the credit reform act, 1995 PA  
12 162, MCL 445.1851 to 445.1864.

13 (3) A person ~~who~~**that** is not exempt under subsection (2) ~~who~~  
14 **that** encumbers property through the recording of an instrument  
15 listed under subsection (1) without lawful cause with the intent to  
16 harass or intimidate any person is liable for the penalties set  
17 forth in section 2907a of the revised judicature act of 1961, 1961  
18 PA 236, MCL 600.2907a.

19 Enacting section 1. This amendatory act does not take effect  
20 unless Senate Bill No. \_\_\_\_ or House Bill No. 5354 (request no.  
21 03158'23) of the 102nd Legislature is enacted into law.