

Revised Statutes of 1846 (EXCERPT)
CHAPTER 65. OF ALIENATION BY DEED, AND THE PROOF AND RECORDING OF
CONVEYANCES, AND THE CANCELING OF MORTGAGES.

565.25 Perfecting recording; conditions; exemptions; liability for certain conduct; penalties.

Sec. 25.

(1) Except as otherwise provided in subsection (2), the recording of a levy, attachment, lien, lis pendens, sheriff's certificate, marshal's certificate, or other instrument of encumbrance does not perfect the instrument of encumbrance unless both of the following are found by a court of competent jurisdiction to have accompanied the instrument when it was delivered to the register under section 24(1) of this chapter:

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

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

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

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

(b) The filing of an instrument of encumbrance authorized by state statute or federal statute.

(c) The filing of a consensual agreement to encumber real property entered into between the owner of real property and the person who seeks to record an encumbrance. A consensual agreement includes but is not limited to a mortgage, loan agreement, land contract, or other consensual or contractual agreement of whatever description entered into between the owner of real property and the person who seeks to record an encumbrance.

(d) The filing of an encumbrance authorized in a final order by a court of competent jurisdiction.

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

(i) A state or nationally chartered bank.

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

(iii) A state or federally chartered credit union.

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

(v) An insurance company authorized to do business in this state pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(vi) A motor vehicle finance company subject to the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141, with net assets in excess of \$50,000,000.00.

(vii) A foreign bank.

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

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

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

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

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

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

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

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

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

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

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

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

History: R.S. 1846, Ch. 65 ;-- CL 1857, 2744 ;-- CL 1871, 4227 ;-- Am. 1879, Act 262, Eff. Aug. 30, 1879 ;-- How. 5675 ;-- CL 1897,

8980 ;-- CL 1915, 11712 ;-- CL 1929, 13300 ;-- CL 1948, 565.25 ;-- Am. 1958, Act 74, Eff. Sept. 13, 1958 ;-- Am. 1996, Act 526, Eff. Mar. 31, 1997 ;-- Am. 2008, Act 357, Imd. Eff. Dec. 23, 2008