

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

565.8 Deeds; execution; witnesses; acknowledgment; endorsement; validity and legality of certain acknowledgments and recordations of deeds; recorded deed lacking 1 or more witnesses.

Sec. 8.

Deeds executed within this state of lands, or any interest in lands, shall be acknowledged before any judge, clerk of a court of record, or notary public within this state. The officer taking the acknowledgment shall endorse on the deed a certificate of the acknowledgment, and the true date of taking the acknowledgment, under his or her hand. Any deed that was acknowledged before any county clerk or clerk of any circuit court, before September 18, 1903, and the acknowledgment of the deed, and, if recorded, the record of the deed, shall be as valid for all purposes so far as the acknowledgment and record are concerned, as if the deed had been acknowledged before any other officer named in this section, and the legality of the acknowledgment and record shall not be questioned in any court or place. If a deed has been recorded that lacks 1 or more witnesses and the deed has been of record for a period of 10 years or more, and is otherwise eligible to record, the record of the deed shall be effectual for all purposes of a legal record and the record of the deed or a transcript of the record may be given in evidence in all cases and the deed shall be as valid and effectual as if it had been duly executed in compliance with this section.

History: R.S. 1846, Ch. 65 ;-- CL 1857, 2727 ;-- CL 1871, 4210 ;-- How. 5658 ;-- CL 1897, 8962 ;-- Am. 1903, Act 117, Eff. Sept. 15, 1903 ;-- Am. 1905, Act 103, Imd. Eff. May 10, 1905 ;-- CL 1915, 11694 ;-- CL 1929, 13284 ;-- Am. 1937, Act 162, Imd. Eff. July 9, 1937 ;-- CL 1948, 565.8 ;-- Am. 1980, Act 488, Imd. Eff. Jan. 21, 1981 ;-- Am. 2002, Act 23, Imd. Eff. Mar. 4, 2002

Compiler's Notes: Section 2 of Act 488 of 1980 provides: "This amendatory act shall not affect any instrument validly executed and acknowledged before the effective date of this amendatory act."

Former Law: By the act of August 29, 1805, the clerk of every court was authorized to record all deeds and writings which were acknowledged or proved before such court, or any judge thereof, or any justice of the peace, or any notary public. If the party did not reside in Michigan the acknowledgment or proof was to be "before any court of law, or the mayor or any chief magistrate of any city, town, or corporation in which the party shall dwell, certified by such court, mayor, or magistrate, in the manner such acts are usually authenticated by them." Woodward Code, p. 52, Secs. 87 and 89; Cass Code, p. 45; Terr. Laws, vol. 1, p. 38. Act of Sept. 16, 1810; Terr. Laws, vol. 1, p. 189, authorizes justices of the peace to take acknowledgments. By the act of 1820, deeds were required to be signed and sealed by the parties, and acknowledged or proved by one or more of the subscribing witnesses thereto, before one of the judges of the supreme court, or one of the justices of any county court, a notary public, or justice of the peace. Code of 1820, p. 157; Terr. Laws, vol. 1, p. 516. Deeds executed in any other territory, state, or country, were required to be acknowledged or proved and certified according to the laws and usages of such territory, state, or country. The provisions of the act of 1820 were substantially re-enacted in 1827, and continued in force until August 31, 1838. Revision of 1827, p. 258, and 1833, p. 279; Terr. Laws, vol. 2, p. 361. By the R.S. 1838, p. 257, acknowledgments might be made "before any judge of any court of record, or before any notary public or justice of the peace within the state or of the United States, or in any foreign country, or before any minister or consul of the United States in any foreign country." And provision was made for proving deeds before a court of record, in case the grantor should die or depart from the state without having acknowledged the same. R.S. 1838, as amended by Act 115 of 1839, Sec. 17, p. 219, required two witnesses. R.S. 1838 required no witnesses to a deed. By Act 108 of 1840, p. 166, deeds might be acknowledged before a justice of the peace, judge of the circuit, district, or supreme courts of the state, or notary public, or master in chancery. If executed by a person residing in any other state or territory, the deed was required to be executed according to the laws of such state or territory. If executed by a person residing in a foreign country, it might be executed according to the laws of such country, and acknowledged before a minister plenipotentiary, consul, or charge d'affaires of the United States. This act was in force until repealed by the R.S. 1846. For acts respecting conveyances by the governor and judges, and by the mayor, recorder, and aldermen of Detroit, see Laws of 1834, p. 38; Act 47 of 1844, p. 60, as amended by Act 108 of 1846, p. 156; and Act 228 of 1850, p. 232.