

MEMORANDUM

TO: Real Property Law Section Council

FROM: Jason Long

DATE: April 5, 2024

SUBJECT: Legislative Committee Report

1. **Monthly Calls.** Since the last RPLS Council meeting, the ad hoc Legislative Committee met via Zoom on March 5 and April 2, 2024. Jason Long and David Pierson held a call with Tabitha Zimny from Karoub & Associates in advance of each of these Committee meetings to provide updates on legislative matters.
2. **Recent Developments.**
 - a. **Marketable Record Title Act.** The Legislature adopted the extension of the grace period through September 29, 2025, with immediate effect, and the Governor signed it on March 28, 2024.

Our focus now turns to the “comprehensive fix.” The legislative committee has worked with ICSC, MLTA, and others to prepare a bill that is acceptable and can be submitted to the Legislative Service Bureau for approval and then introduction in the legislature. A copy of the most recent draft is provided with this Report.

In the past, Council has authorized the legislative committee to work on draft bills subject to established parameters that Council set when MRTA issues first began to arise. The current draft can be introduced during April if it is approved, and the legislative committee wanted to present this draft to Council for approval before sending it into the process.

Notably, although the grace period extends through September 2025, the legislative term will be over at the end of 2024 (and possibly earlier than the end of the year). To try to keep our momentum and get something adopted before there is a change in the legislature, the committee requests Council approval for this draft bill.

- b. **Partition of Heirs Property.** At the February Council meeting, Council adopted a statement in opposition to HB 4924, which would adopt a Uniform Partition of Heirs Property Act, as follows:

The Real Property Law Section of the State Bar of Michigan opposes this legislation in its current form. As drafted, the legislation proceeds as if Chapter 33 of the Revised Judicature Act governs partition actions, though MCR 3.402 and MCR 3.403 govern such actions. This creates conflicts

between the legislation as drafted, which states only that the procedures that it creates supersede the procedures established in Chapter 33 to the extent of any conflicts, and the procedures established in the applicable court rules.

The bill passed the house and is pending in the senate committee on civil rights, the judiciary, and public safety. Rep. Emily Dievendorf, the bill's original sponsor, is not only open to our input but desirous of hearing it. The legislative committee has been analyzing the bill since the February 2024 Council meeting and proposes that we revise our position statement to state that we oppose the bill unless certain amendments are implemented. The proposed revised position statement is as follows:

The Real Property Law Section of the State Bar of Michigan opposes this legislation unless certain amendments are implemented. The current draft proceeds as if Chapter 33 of the Revised Judicature Act governs partition actions, though MCR 3.402 and MCR 3.403 govern such actions. This creates conflicts between the legislation as drafted, which states only that the procedures that it creates supersede the procedures established in Chapter 33 to the extent of any conflicts, and the procedures established in the applicable court rules. To address this, the RPLS proposes the following amendments:

In section 3402, at page 3, beginning on line 22, revising the language to provide, "This Chapter supplements Chapter 33 of the Revised Judicature Act of 1961 and if an action is governed by this Chapter, it supersedes the provision of Chapter 33 and Subchapter 3.400 of the Michigan Court Rules to the extent inconsistent with this Chapter."

In section 3410, at page 11, beginning on line 26, revising the language to provide, "(5) If the court orders a sale by sealed bids or by an auction, the court shall set the terms and conditions of the sale. If the court orders an auction, the auction must be conducted under the Michigan Court Rules subchapter 3.403."

- c. **Penalties for Recording False-Fraudulent Documents.** Two new bills introduced establish, or more likely expand, criminal liability for recordings with registers of deeds. The bills are HB 5598 and HB 5599, which contain broad and perhaps ambiguous language that seems to place registers of deeds in the position of assisting law enforcement. The conduct that these bills seem to want to target is something that may already be a crime under MCL 750.218, which addresses deeds and other documents obtained through fraud or at least could be the more appropriate place for the amendments.

We asked Tabitha to determine where the Registers of Deeds organization stands on these bills. After the legislative committee meeting, Tabitha reported that the bills originated with the Wayne County ROD and that the ROD organization does not seem likely to oppose them.

Once the two recently-elected representatives are seated in April, these are bills that may move quickly. The legislative committee will review the bills in more detail but it is possible that the bills could move before that takes place, so the committee suggests that Council review the bills. Copies are provided with this Report.

- d. ***Kessler v Longview Agriculture Asset Mngmt-Fix Bill.*** Recall that *Kessler* concluded that the purchaser at a mortgage foreclosure sale can wait until the day before the redemption period expires to record the sheriff's deed, and the redemption period will expire the following day. The Council passed a resolution supporting our proposed amendments to MCL 600.3232 and MCL 600.3240 to correct this. The Legislative Service Bureau has prepared a bill, a copy of which is provided with this Report. Rep. Steckloff is open to introducing the bill but wishes to discuss with members of the legislative committee; we are working to schedule that discussion.
- e. **Tenancy by the Entireties Bills.** Previously, David sent Tabitha a list of statutes to be amended to correct the lingering issues arising out of Michigan's failure to implement the Supreme Court's decision in *Obergefell v Hodges*. Fourteen bills were introduced to remedy the issues (with various sponsors but organized by the legislative LGBTQ+ Caucus). As introduced, all of the bills are tie-barred to 2023 House Joint Resolution F, which would amend the Michigan Constitution by striking Const 1963, art 1, § 25, the provision for "one man-one woman" marriage adopted in 2004, and amending Const 1963, art 10, § 1, which related to coverture, to make it gender-neutral. The amendments would require approval by statewide vote. Because the bills were tie-barred to HJR F, nothing will happen with them until that vote takes place.

TBE issues are happening in real time, however, so the Legislative Committee has continued to pursue these issues. Tabitha had been working toward Senator Moss introducing the bill, but he introduced the MRTA extension, so she is pursuing other potential sponsors for the bill including Sen. Graham Filler.

3. RPLS Positions.

- a. **Blight Citations.** At the Council meeting on September 13, 20223, Council voted to oppose HB 4332, which would amend the Home Rule Cities Act to provide for certain citations for property owners whose properties have blight violations, based on the bill allowing service by first-class mail and email if there is a "good faith" effort at personal service that fails, which can lead to blight violations and even criminal convictions. The bill nevertheless passed the House on September 26 and was referred to the Senate.
- b. **Prompt Pay Bills.** At the Council meeting at the summer conference on July 21, 2023, Council voted to oppose HB 4837 and SB 0451, which are the subcontractor "prompt payment" bills. Since their introduction, there has been no activity with these bills.
- c. **Foreign Ownership.** At the last Council meeting, we decided to monitor HB 5050 and HB 5073. They were introduced but the Legislature has not taken any action on them, and now is out of session until January.

d. Tax Tribunal. Council voted to oppose SB 19 and SB 20, which would take certain cases involving commercial property away from the Tax Tribunal and grant jurisdiction over them to a local board. These bills were a reaction to the courts' treatment of a tax case called *Menard's, Inc v City of Escanaba*, involving "big box" stores. There has been no activity since the bills' introduction.

e. Uniform Partition of Heirs Property. Council voted to oppose HB 4924 at the February 2024 meeting, as discussed above.

4. Old Business.

- a. Alternative Energy and Owners Associations.** We decided to monitor HB 5109 and HB 5028, both of which would impact the power of homeowners and condo associations regarding alternative energy installations. Afterward, the Condo Committee provided a comprehensive analysis of the bills and suggested that the RPLS oppose the bills. HB 5028 has now passed the House and is pending in the Senate. Tabitha advises that the policies reflected in these bills are the type of policies that the Legislature as a whole wants to promote.

The Legislative Committee reviewed the Condo Committee's analysis and found it insightful and persuasive. But with HB 5028 passing the House and the general support for these policies, the Legislative Committee concluded that opposing the bills is likely futile. The better approach would be to try to influence them to render them more acceptable.

To that end, the Legislative Committee prepared proposed revisions to HB 5028. At the November Council meeting, the decision was for Council to continue to study the proposed amended language and determine whether to take any action. There has been no activity with these bills since November.

- b. Housing.** The Legislature saw a number of bills pertaining to housing introduced since our last Council meeting. They are listed in the "new legislation" section of this Report, but include bills pertaining to landlord-tenant issues involving security deposits, utilities, and other mostly residential-oriented matters. Tabitha advised that these bills are unlikely to receive any serious consideration and that the Speaker of the House apparently has no intent to bring them to a vote. Accordingly the Legislative Committee recommends no action on these bills.
- c. Alternative Energy.** Bills were introduced, approved by committees, and adopted by the Legislature to allow the Michigan Public Service Commission to site alternative energy installations such as solar farms and windmills notwithstanding local zoning. Two of the bills were adopted as 2023 PA 233 and 234. These bills moved on a schedule that did not allow the RPLS to take a position.

d. **2022 PA 234, MCL 565.861 et seq.** This was the act adopted to allow for removal of racial and other odious restrictive covenants from title documents. The RPLS had suggested revisions pertaining to the capacity of the persons signing the documents to remove the restrictions. The act was adopted without our revisions. Sen. Anthony initially expressed that she would work with us to address the revisions but then declined to do so. Tabitha is continuing to work on getting us back in front of Sen. Anthony and her staff to address our concerns.

5. **New Bills.** Since the February meeting the following bills relating to real property have been introduced. The bills identified here include SB 721, which became 2024 PA 20 extending the MRTA grace period through September 2025.

HB 5598 Property: recording; penalties for knowingly drafting or submitting false documents to the register of deeds; provide for. Amends title & sec. 1 of 1883 PA 98 (MCL 565.371).

HB 5599 Property: recording; penalties for knowingly drafting or submitting false documents to the register of deeds; provide for. Amends sec. 15b, ch. XVII of 1927 PA 175 (MCL 777.15b).

HB 5605 Housing: landlord and tenants; acceptance of reusable screening report; provide for. Amends title & sec. 1 of 1972 PA 348 (MCL 554.601) & adds secs. 1c, 1d, 1e & 1f.

HB 5614 Environmental protection: other; requirements for people that use sewage sludge or sewage sludge derivatives in land application to test for PFAS; provide for. Amends secs. 3103 & 3131 of 1994 PA 451 (MCL 324.3103 & 324.3131).

HB 5630 Civil rights: disabilities discrimination; modifications for notifications of eviction and foreclosure; provide for. Amends 1976 PA 220 (MCL 37.1101 - 37.1607) by adding sec. 506b. TIE BAR WITH: HB 5631'24

HB 5631 Civil procedure: foreclosure; notifications in foreclosure and eviction proceedings; modify requirements. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding secs. 3103, 3203, 5709 & 5774. TIE BAR WITH: HB 5630'24

SB 801 Civil procedure: evictions; court records of summary proceedings; provide for the sealing and expungement of. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 5755.

SB 0721 of 2024 Property: recording; Marketable record title; modify. Amends secs. 1 & 3 of 1945 PA 200 (MCL 565.101 & 565.103).

SB 0722 of 2024 Public utilities: other; transfer of utility to tenant; provide for. Amends sec. 1 of 1939 PA 178 (MCL 123.161) & adds sec. 4a. TIE BAR WITH: SB 0554'23

- HB 5476 of 2024 Housing: other; housing-with-services contract act; amend to reflect amendments to the public health code. Amends secs. 2 & 7 of 2002 PA 424 (MCL 333.26502 & 333.26507). TIE BAR WITH: HB 5477'24
- HB 5449 of 2024 Property tax: exemptions; exemption for the surviving spouse of a disabled veteran; modify. Amends sec. 7b of 1893 PA 206 (MCL 211.7b).
- HB 5437 of 2024 Taxation: hotel-motel; stadium and convention facility tax; clarify application to short-term rentals and make other modifications. Amends title & secs. 1, 2 & 6 of 1991 PA 180 (MCL 207.751 et seq.). TIE BAR WITH: HB 5438'24
- HB 5438 of 2024 Housing: other; short-term rental regulation act; create. Creates new act. TIE BAR WITH: HB 5441'24, HB 5443'24, HB 5442'24, HB 5445'24, HB 5440'24, HB 5446'24, HB 5439'24, HB 5444'24, HB 5437'24
- HB 5439 of 2024 Taxation: convention tourism assessments; regional convention and tourism promotion act; clarify application to short-term rentals and make other modifications. Amends title & secs. 2, 3, 4 & 7 of 2010 PA 254 (MCL 141.1432 et seq.). TIE BAR WITH: HB 5438'24
- HB 5440 of 2024 Taxation: convention tourism assessments; regional tourism marketing act; clarify application to short-term rentals and make other modifications. Amends title & secs. 2, 3, 4, 5, 8 & 9 of 1989 PA 244 (MCL 141.892 et seq.). TIE BAR WITH: HB 5438'24
- HB 5441 of 2024 Taxation: convention tourism assessments; community convention or tourism marketing act; clarify application to short-term rentals and make other modifications. Amends title & secs. 2, 3, 3a, 4 & 8 of 1980 PA 395 (MCL 141.872 et seq.) & repeals sec. 9 of 1980 PA 395 (MCL 141.879). TIE BAR WITH: HB 5438'24
- HB 5442 of 2024 Taxation: hotel-motel; state convention facility development act; clarify application to short-term rentals and make other modifications. Amends title & secs. 3, 4, 8, 9 & 19 of 1985 PA 106 (MCL 207.623 et seq.). TIE BAR WITH: HB 5438'24
- HB 5443 of 2024 Taxation: hotel-motel; excise tax on business of providing accommodations; clarify application to short-term rentals and make other modifications. Amends title & secs. 1, 2, 3, 4, 6 & 7 of 1974 PA 263 (MCL 141.861 et seq.). TIE BAR WITH: HB 5438'24
- HB 5444 of 2024 Taxation: convention tourism assessments; regional event center financing act; clarify application to short-term rentals and make other modifications. Amends title & secs. 2, 3 & 5 of 2020 PA 340 (MCL 141.1442 et seq.). TIE BAR WITH: HB 5438'24
- HB 5445 of 2024 Taxation: convention tourism assessments; convention and tourism marketing act; clarify application to short-term rentals and make other modifications. Amends title & secs. 2, 3, 4 & 8 of 1980 PA 383 (MCL 141.882 et seq.). TIE BAR WITH: HB 5438'24
- HB 5446 of 2024 Taxation: convention tourism assessments; convention and tourism promotion act; clarify application to short-term rentals and make other

modifications. Amends title & secs. 2, 3, 4 & 8 of 2007 PA 25 (MCL 141.1322 et seq.). TIE BAR WITH: HB 5438'24

DRAFT 3

A bill to amend 1945 PA 200, entitled

"An act to define a marketable record title to an interest in land; to require the filing of notices of claim of interest in such land in certain cases within a definite period of time and to require the recording thereof; to make invalid and of no force or effect all claims with respect to the land affected thereby where no such notices of claim of interest are filed within the required period; to provide for certain penalties for recording slanderous notices of claim of interest, and to provide certain exceptions to the applicability and operation thereof,"

by amending the title and sections 1, 1a, 2, 3, 4, 5, and 8 MCL565.1, 565.101a, 565.102, 565.103, 565.104, 565.105, and 565.108), sections 1, 2, and 5 as amended by 2018 PA 572,

section 1a as added by 1997 PA 154, section 3 as amended by 2020 PA 294, and section 4 as amended by 2022 PA 235, and by adding section 5a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to define a marketable record title to an interest in land; to require the ~~filing~~ **recording** of notices of claim of interest in ~~such~~ land in certain cases within a definite period of time; ~~and to require the recording thereof;~~ to make invalid and of no force or effect all claims with respect to the land affected thereby where no such notices of claim of interest are ~~filed~~ **recorded** within the required period **and to provide certain exceptions; and** to provide for certain penalties for recording slanderous notices of claim of interest. ~~, and to provide certain exceptions to the applicability and operation thereof~~

Sec. 1. Any person, that has the legal capacity to own land in this state, that has an unbroken chain of title of record to any interest in land for 20 years for mineral interests and 40 years for other interests, is at the end of the applicable period considered to have a marketable record title to that interest, subject only to claims to that interest and defects of title ~~as~~ **that** are not extinguished or barred by ~~the~~ application of this act and subject also to any interests and defects ~~as~~ **that** are inherent in the provisions and limitations contained in the muniments of which the chain of record title is formed and that are recorded ~~within 2 years after the effective date of the amendatory act that added section 2(2) 5a or during the 20-year period for mineral interests and the 40-year period for other interests.~~ **OR PRESERVED AND KEPT EFFECTIVE BY RECORDING IN ACCORDANCE WITH SECTION 3 WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 5A.** However, a person is not considered to have a marketable record title ~~by~~

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~~reason of~~ **under** this act if the land in which the interest exists is in the hostile possession of another.

Sec. 1a. As used in this act: ~~“mineral interest”~~

(a) “Claimant” means a person holding an interest, claim, or charge on land and recording a notice of claim under Section 3 with the office of the register of deeds of the county in which the land is located.

(b) **“Mineral interest”** means an interest in minerals in any land if the interest in minerals is owned by a person other than the owner of the surface of the land. Mineral interest does not include an interest in oil or gas or an interest in sand, gravel, limestone, clay, or marl.

(c) **“Person” means an individual, corporation, limited liability company, partnership, firm, organization, governmental entity, or other legal entity. Person includes a property owners’ association.**

(d) **“Property owners’ association” means any of the following:**

(i) A person or an unincorporated association with a voting membership that is made up of owners of land or the owners’ agents, or a combination of the owners of land and the owners’ agents, that is either of the following:

(A) Responsible for the operation or management of the land.

(B) Authorized to enforce a document recorded with the office of the register of deeds of the county in which land is located that subjects the land to any use or other restriction or obligation

(ii) An association of co-owners as that term is defined in section 3 of the condominium act, 1978 PA 59, MCL 559.103.

Sec. 2. (1) A person is considered to have an unbroken chain of title to an interest in land as provided in section 1

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Deleted: →(e) “Subdivision restrictions” means any declaration or other instrument or agreement executed and recorded on or after January 1, 1950, as it may be amended, where such declaration or other instrument or agreement, as it may be amended, that does either of the following:¶
→(i) Provides for residential use or the establishment of a property owner’s association with respect to which each owner of a lot or other parcel of land that is the subject of such declaration or other instrument or agreement is a member.¶
→(ii) Is recorded on property that is used for commercial use on the day before the expiration of the 40 year period set forth in section 1.¶
Sec. 2.¶
→

if the ~~official public records~~ **office of the register of deeds of the county in which land is located discloses** either of the following:

(a) A conveyance or other title transaction not less than 20 years in the past for mineral interests and 40 years for other interests, SUBJECT TO THE EXCEPTION IN SECTION 3 FOR INTERESTS THAT MAY BE PRESERVED AND KEPT EFFECTIVE BY RECORDING WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 5A, which conveyance or other title transaction purports to create the interest in that person, with nothing appearing of record purporting to divest that person of the purported interest.

(b) A conveyance or other title transaction not less than 20 years in the past for mineral interests and 40 years for other interests, SUBJECT TO THE EXCEPTION IN SECTION 3 FOR INTERESTS THAT MAY BE PRESERVED AND KEPT EFFECTIVE BY RECORDING WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 5A, which conveyance or other title transaction purports to create the interest in some other person and other conveyances or title transactions of record by which the purported interest has become vested in the person first referred to in this section, with nothing appearing of record purporting to divest the person first referred to in this section of the purported interest.

(2) For purposes of this section, except as to mineral interests, a conveyance or other title transaction in the chain of title purports to divest an interest in the ~~property~~ **land** only if it ~~creates~~ **does either of the following:**

(a) **Purports to create** the divestment. ~~or if it~~

(b) **Except as otherwise provided in section 5a(1),** specifically refers by liber and page or other county-assigned unique identifying number to a previously recorded conveyance or

other title transaction that ~~created~~ **purported to create** the divestment UNLESS PRESERVED UNDER SECTION 3 OR EXCEPTED UNDER SECTION 4.

Sec. 3. (1) Marketable **record** title is held by a person and is taken by ~~his or her~~ **the person's** successors in interest free and clear of any and all interests, claims, and charges the existence of which depends in whole or in part on any act, transaction, event, or omission that occurred before the 20-year period for mineral interests, and the 40-year period for other interests, and all such interests, claims, and charges are void and of no effect at law or in equity. However, an interest, claim, or charge may be preserved and kept effective by ~~filing for record~~ **recording** within ~~5~~ **2** years after ~~March 29, 2019~~ **the effective date of the amendatory act that added section 5a** or during the 20-year period for mineral interests ~~and~~ **or** the 40-year period for other interests, a notice ~~in writing, verified by oath, setting forth the nature of the claim in the manner required by~~ **of claim that satisfies the requirements of** section 5. **However, an interest, claim, or charge which became void and of no effect under this subsection before** MARCH 29, 2019 ~~the effective date of the amendatory act that added section 5a or that expires or terminates based on its own terms is not effective and is not preserved by recording a notice under this subsection~~ UNLESS THE INTEREST IS EXCEPTED UNDER SECTION 4.

(2) A disability or lack of knowledge of any kind on the part of anyone does not suspend the running of the 20-year period for mineral interests or the 40-year period for other interests.

(3) For the purpose of recording notices of claim for homestead interests, the date from which the 20-year period for mineral interests and the 40-year period for other interests run

is the date of recording of the instrument that contains the basis for the claim.

(4) A notice under this section may be ~~filed for record~~ **recorded by any of the following:**

- a. The claimant. ~~or by any~~
- b. **Any other person acting on behalf of the claimant as agent or as authorized in writing.**
- c. **A property owners' association.**
- d. **Any other person acting on behalf of any claimant if 1 or more of the following conditions exist:**
 - (i) The claimant is under a disability.
 - (ii) The claimant is unable to assert a claim on ~~his or her~~ **the claimant's** own behalf.

(iii) The claimant is 1 of a class but whose identity cannot be established or is uncertain at the time of ~~filing recording~~ the notice of claim. ~~for record.~~

(5) **The recording of a notice under this section by any claimant that meets all the requirements of this act to preserve the claimant's rights in the land is an effective notice under this section, for any other person whose rights originate from the same document as THE claimant's.**

Sec. 4. (1) This act must not be applied to do any of the following:

(a) Bar a lessor or THE LESSOR'S successor as reversioner of his or her right to possession on the expiration of a lease or a lessee or his or her successor of his or her rights in and to a lease.

(b) Bar any interest of a mortgagor or a mortgagee or interest in the nature of that of a mortgagor or mortgagee until after the instrument under which the interest is claimed has become due and payable, except if the instrument has no due date expressed, if the instrument has been executed by a railroad,

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railroad bridge, tunnel, or union depot company, or a public utility or public service company.

(c) Bar or extinguish an easement or interest in the nature of an easement, the existence of which is clearly observable. ~~By physical evidences of its use.~~

(d) Bar or extinguish an easement or interest in the nature of an easement, or any rights appurtenant to the easement or interest granted, excepted, or reserved by a recorded instrument creating the easement or interest, including any rights for future use, due to a failure to file RECORD the notice required under this act, if the easement, observable or not, is for any of the following:

(i) The operation, construction, maintenance, improvement, removal, replacement, or protection of a pipe, valve, road, wire, cable, conduit, duct, sewer, track, pole, tower, or other physical facility and whether or not the existence of the facility is observable.

(ii) Flowage rights for an impoundment that exists as part of a federally licensed hydroelectric facility.

(iii) The management of vegetation within the easement.

(e) Bar or extinguish any **of the following** land or resource use ~~restriction including any of the following restrictions:~~

(i) ~~An environmental~~ **A restrictive covenant or other recorded instrument if that restricts the use of property for the protection of health or safety from the environmental condition of the property, including, but not limited to, a restrictive covenant or other recorded instrument that specifically cites the state or federal environmental statute that is the basis for the restriction, including any of the following:**

(A) The natural resources and environmental protection act, 1994 PA 451, MCL 324.214.101 to 324.90106.

(B) The resource conservation and recovery act of 1976, Public Law 94-580.

(C) The comprehensive environmental response, compensation, and liability act of 1980, 42 USC Chapter 103.

(ii) A conservation easement as that term is defined in section 2140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.2140.

(iii) Any environmental land or resource use restriction recorded by a public utility as that term is defined in section 1 of 1929 PA 69, MCL 460.501, or by an independent transmission company as that term is defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562, on real property in which the public utility or independent transmission company had an interest when recorded.

(f) Bar or extinguish the rights of any remainderman upon the expiration of any life estate or trust.

(g) BAR OR EXTINGUISH ANY INTEREST CREATED BY ANY DECLARATION OR OTHER INSTRUMENT OR AGREEMENT EXECUTED AND RECORDED ON OR AFTER JANUARY 1, 1950, AS IT MAY BE AMENDED, THAT SUBJECTS THE LAND TO ANY USE OR OTHER RESTRICTION OR OBLIGATION, BURDEN, OR BENEFIT WITH RESPECT TO EACH LOT OR OTHER PARCEL OF LAND THAT IS THE SUBJECT OF THE DECLARATION OR OTHER INSTRUMENT OR AGREEMENT.

Deleted: → (g) Bar or extinguish any subdivision restrictions.¶

(h) Bar or extinguish any INTEREST CREATED BY A recorded master deed for a condominium or any recorded amendments to a recorded master deed for a condominium.

(i) Create, preserve or continue any unlawful restrictions based on race, color, religion, sex, handicap, familial status, or national origin.

(2) This act does not affect any right, title, or interest in land owned **or held** by the United States, this state, or any

department, commission, **agency, authority**, or political subdivision thereof.

(3) This act does not affect any oil and gas lease, or other interest in oil or gas, owned by a person other than the owner of the surface, or any storage agreement or other interest in subsurface storage formations owned by a person other than the owner of the surface.

Sec. 5. (1) To be effective and to be entitled to record, a notice of claim under section 3 must contain an accurate and full description of all the land affected by the notice, ~~which~~ **and the** description must be set forth in particular terms and not by general inclusions. ~~However, except as to mineral interests, if the claim is founded on a recorded instrument, the notice must also state the liber and page or other county assigned unique identifying number of the recorded instrument the claim is founded on. The failure to include the liber and page or other county assigned unique identifying number renders the recording ineffective and the claim unpreserved.~~ The notice **of claim** must contain all of the following:

- (a) The claimant's name.
- (b) The claimant's mailing address.
- (c) The interest claimed to be preserved.

(d) Except as to mineral interests, the liber and page or other unique identification number ~~of the~~ **assigned by the office of the register of deeds for the recorded** instrument creating the interest to be preserved.

(e) The legal description of the ~~real property land~~ **land** affected by the claimed interest.

(f) The claimant's signature.

(g) An acknowledgment in the form required by ~~the uniform recognition of acknowledgments act, 1969 PA 57, MCL 565.261 to~~

565.270, and section 27 of the Michigan notary public act, law on notarial acts, 2003 PA 238, ~~MCL 55.287~~ MCL 55.261 to 55.315.

(h) The drafter's name and address.

(i) An address to which the document can be returned.

(j) The name and mailing address of all owners of land that is claimed to be affected by the notice of claim. For purposes of this subdivision, the names and mailing addresses of persons in whose name the land is assessed on the last completed tax assessment roll of the county in which the land is located at the time of recording are the owners of the land.

(2) The following form of notice of claim may be used and is sufficient for a notice of claim under section 3, although this subsection does not preclude the use of a form that is substantially similar and meets the requirements of this section:

NOTICE

Claimant: _____

Whose address is: _____

hereby claims the following described interest: _____

which was originally created by _____,
recorded in liber _____, on Page _____,
_____ county records, and affects land located in the
_____ of _____, County of _____,
state of Michigan, and more fully described as:

Commonly known as:

Tax Item No.:

The owner(s) of land affected by this notice, for purposes of MCL 565.105(1)(j) is/are:

Whose address(es) is/are:

<<Claimant>>

STATE OF)
) SS.
COUNTY OF)

This instrument was acknowledged before me on _____, 20__, by
<<Claimant>>.

_____, Notary Public
_____, County, Michigan

My Commission Expires: _____

Acting in _____ County, Michigan

Drafted by: _____ Return to:

(3)(2) A notice of claim under section 3 must be ~~filed for recorded~~ **recorded** in the register of deeds office of the county or counties where the land described in the notice is located. The register of deeds of each county shall accept all notices of claim under section 3 that are presented to the register of deeds that describe land located in the county in which the register of deeds serves and shall enter and record full copies

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of the notices in the same way that deeds and other instruments are recorded.

(4) ~~(3)~~ A register of deeds is entitled to charge the same fees for the recording of a notice under section 3 as are charged for recording deeds. In indexing notices under section 3, a register of deeds shall enter the notices under the grantee indexes of deeds under the names of the claimants **appearing in the notices, and the grantor indexes under the names of the owners of the land** appearing in the notices.

Sec. 5a. (1) A deed that conveys land or warrants title to land subject to an interest, claim, or charge, or a mortgage that encumbers land or warrants title to land subject to an interest, claim, or charge, is not an effective notice of claim of an interest, claim, or charge for purposes of section 2 or section 3 if the deed or mortgage states that the reference to the interest, claim, or charge is for the sole purpose of limiting the warranty in the instrument and does not create, preserve, or continue the interest, claim, or charge under this act. The inclusion of the following statement in the deed or mortgage is sufficient to preclude the creation, preservation, or continuation of an interest, claim, or charge, although this subsection does not preclude the use of a statement that is substantially similar to the statement under this section:

"The references to the exceptions to title by liber and page in this instrument are for the sole purpose of limiting the warranty or covenant of title, as applicable, in this instrument and do not create, preserve, or continue the interest, claim, or charge under 1945 PA 200, MCL 565.101 to 565.108.

(2) A statement in a deed recorded with the office of the register of deeds of the county in which land is located which includes a statement that an interest is conveyed "subject to easements and restrictions of record" or substantially similar

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language, without reference to any liber or page, is not effective to create, preserve, or continue any recorded easements or restrictions of record for purposes of section 2 or section 3.

Sec. 6. This act shall be construed to effect the legislative purpose of simplifying and facilitating land title transactions by allowing persons dealing with the record title owner, as defined in this act, to rely on the record title covering a period of not more than 20 years for mineral interests and 40 years for other interests prior to the date of such dealing and to that end to extinguish all claims that affect or may affect the interest dealt with, SUBJECT TO THE EXCEPTION IN SECTION 3 FOR INTERESTS THAT MAY BE PRESERVED AND KEPT EFFECTIVE BY RECORDING WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 5A OR EXCEPTED BY SECTION 4, the existence of which claims arises out of or depends upon any act, transaction, event, or omission antedating the 20-year period for mineral interests and the 40-year period for other interests, unless within the 20-year period for mineral interests or the 40-year period for other interests, UNLESS EXCEPTED BY SECTION 4 OR WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 5A FOR INTERESTS THAT MAY BE PRESERVED AND KEPT EFFECTIVE BY RECORDING IN ACCORDANCE WITH SECTION 3 a notice of claim as provided in section 3 has been filed for record. The claims extinguished by this act are any and all interests of any nature whatever, however denominated, and whether the claims are asserted by a person sui juris or under disability, whether the person is within or outside the state, and whether the person is natural or corporate, or private or governmental.

Sec. 8. ~~No~~ **A** person shall **not** use the privilege of ~~filing~~ recording notices ~~hereunder~~ **under this act** for the purpose of

slandering the title to land. ~~and in~~ **In** any action brought for the purpose of quieting title to land, if the court ~~shall find~~ **finds** that any person has filed a claim ~~for that reason only,~~ he **solely for the purpose of slandering the title to land, the court** shall award the plaintiff all the costs of such **the** action, including ~~such~~ attorney fees as the court may allow ~~to the plaintiff,~~ and in addition, **the court** shall decree that **order** the defendant asserting ~~such the~~ claim ~~shall~~ **to** pay to **the** plaintiff all damages that **the** plaintiff may have sustained as the result of ~~such the~~ **recording of the** notice of claim. ~~having been so filed for record.~~