

LAND RECORDS ACT

AN ACT to further the security and certainty of land records by providing for a regular and consistent process to create and maintain a public record of claims and interests in real property; to streamline processes and facilitate the implementation of new technology in the manner and method of recording instruments; to define terms and prescribe the duties of each county register of deeds; to provide for reasonable public access to land records maintained by the county register of deeds; to establish standards and criteria for judicial review of county processes to assure compliance with the provisions and purpose of this Act.

ARTICLE 1

GENERAL PROVISIONS

Section 1-101 Short Title

This Act shall be known and cited as the “Land Records Act.”

Section 1-102 Scope and Purpose

This Act shall be construed and applied to promote its underlying purposes and policies, which are:

- (1) To provide a regular and consistent system for recording and indexing claims and interests in real property in all counties throughout the state;
- (2) To streamline processes and promote the use and implementation of new technology in the recording and indexing process;
- (3) To further the security and certainty of land records and protect the priority of claims and interests in real property;
- (4) To prescribe the requirements for recording of instruments relating to claims and interests in real property;
- (5) To define and delineate the duties and functions of each register of deeds;
- (6) To assure reasonable public access to and reproduction of records maintained by each register of deeds;
- (7) To provide standards and criteria for judicial review to assure compliance with provisions of this Act.

Section 1-103 Effect

Every conveyance of real estate within the state hereafter made, shall be void as against any subsequent purchaser in good faith and for a valuable consideration, of the same real estate or any portion thereof, whose conveyance shall be first recorded. For purposes of this Act, a recorded instrument shall be deemed to have been recorded as of the time of its presentment. The fact that such first recorded conveyance is in the form or contains the terms of a deed of quit-claim and release shall not affect the question of good faith of such subsequent purchaser.

Section 1-104 Definitions

As used in this Act:

- (a) “Constructive notice” means the imputed knowledge of the contents of an instrument, the existence of which could be determined through an examination of the land records.
- (b) “Electronic” has the meaning ascribed to it in Section 2 of the Uniform Electronic Transactions Act, Act 305 of the public acts of 2000, being MCL § 450.832.
- (c) “Electronic record” has the meaning ascribed to it in Section 2 of the Uniform Electronic Transactions Act, Act 305 of the public acts of 2000, being MCL § 450.832.
- (d) “Electronic signature” has the meaning ascribed to it in Section 2 of the Uniform Electronic Transactions Act, Act 305 of the public acts of 2000, being MCL § 450.832.
- (e) “Instrument” means any information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, that pertains to an interest in, or claim to, real property. An instrument may be in the form of an electronic record.
- (f) “Land records” means records maintained by a register of deeds under the provisions of this Act, including all recorded instruments, together with any general indexes maintained by a register of deeds as required by the laws of this state.
- (g) “Person” means any individual, corporation, limited liability company, partnership, firm, organization, association, governmental entity, or other legal entity.

- (h) “Present” means to unconditionally deliver an instrument to a register of deeds for recording.
- (i) “Presented” means to have unconditionally delivered an instrument to a register of deeds for recording.
- (j) “Presentment” means the act of unconditionally delivering an instrument to a register of deeds for recording. Presentment may be made by mail, courier, or personal delivery. Presentment may additionally be made by any other means of transmission permitted by a register of deeds, including by electronic means.
- (k) “Record,” when used in its verb form, shall mean, with regard to an instrument, to perform those duties and obligations set forth in Section 3-102(a), (c) and (d) of this Act.
- (l) “Recorded” means, with regard to an instrument, that those duties and obligations set forth in Section 3-102(a), (c) and (d) of this Act have been completed with regard to such an instrument.
- (m) “Recording” means, with regard to an instrument, the completion of those duties and obligations set forth in 3-102(a), (c) and (d) of this Act.
- (n) “Recording information summary” means a summary of information about an instrument, which summary meets the requirements of Sections 2-101(5) and 2-102 of this Act.
- (o) “Register of deeds” means the county officer elected pursuant to Article 7, Section 4 of the Constitution of this state, together with any duly appointed deputies, staff and agents engaged in fulfilling the duties and obligations of this Act.
- (p) “Signature” means any symbol or mark made upon, or associated with, an instrument and executed or adopted by a person with the intent to give effect to the instrument or to verify the authenticity of the instrument’s contents. A signature includes an “electronic signature” as that term is defined in Section 2 of the Uniform Electronic Transactions Act, Act 305 of the Public Acts of 2000, being MCL § 450.832

ARTICLE 2

RECORDING

Sec. 2-101 Formal Requisites for Recording

- (1) An instrument executed after October 29, 1937 that pertains to any interest in or claim to real property, presented to the register of deeds of any county of the state, shall be recorded and processed in accord with this Act if it complies with all of the requirements of this Section.
 - (a) The name of each person purporting to execute the instrument shall be legibly printed, typewritten or stamped beneath the signature of the person;
 - (b) A discrepancy shall not exist between the name of each person as printed, typewritten, or stamped beneath their signature and the name as recited in the acknowledgment or jurat on the instrument;
 - (c) The name of any notary public whose signature appears upon the instrument shall be legibly printed, typewritten or stamped upon the instrument immediately beneath the signature of that notary public.
- (2) If the instrument is executed and presented in paper form, each sheet of the instrument shall be:
 - (a) Typewritten or printed in type not smaller than 8-point size.
 - (b) Not more than 8-1/2 by 14 inches.
 - (c) Legible.
 - (d) On paper of not less than 13 (17x22--500) pound weight.
- (3) If the instrument is executed and presented in paper form after April 1, 1997, each sheet of the instrument shall additionally:
 - (a) Have a margin of unprinted space that is at least 2-1/2 inches at the top of the recording information summary and at least 1/2 inch on all remaining sides of each page.
 - (b) Display on the first line of print on the first page of the instrument a caption or title identifying the instrument.

- (c) Be electronically, mechanically, or hand printed in not less than 10-point type or the equivalent of 10-point type.
 - (d) Be legibly printed in black on white paper that is not less than 20-pound weight and is signed in black or blue ink.
 - (e) Be not less than 8-1/2 inches wide and 11 inches long or more than 8-1/2 inches wide and 14 inches long.
 - (f) Contain no attachment that is less than 8-1/2 inches wide and 11 inches long or more than 8-1/2 inches wide and 14 inches long.
- (4) Subsections (2) and (3) do not apply to instruments executed outside this state or to the filing or recording of a plat or other instrument, the size of which is regulated by law.
- (5) Each instrument presented to a register of deeds shall be accompanied by a recording information summary. Each recording information summary shall be presented in the same media form as the instrument to which it relates. Each recording information summary presented in paper form shall be presented immediately before the first page of the instrument to which it relates. Each recording information summary presented as an electronic record shall be logically associated with the instrument to which it relates and may be a part of the same electronic record with the instrument. Each recording information summary shall contain the following information.
- (a) The name(s) and address(es) of each first party, which includes any grantor, mortgagor, assignor, lienor or any other party purporting to grant, convey release or assert an interest in real property.
 - (b) The name(s) and address(es) of each second party, which includes any grantee, mortgagee, assignee or lienee or other party who receives an interest or conveyance, or against whom a claim or assertion pertaining to real property is made.
 - (c) The date of the instrument.
 - (d) The single following category that most closely describes the type of instrument.

- (i) Deed
 - (ii) Mortgage
 - (iii) Assignment of mortgage
 - (iv) Discharge of mortgage
 - (v) Lien or claim
 - (vi) Affidavit
 - (vii) Court order
 - (viii) Other
- (e) The consideration or transaction amount in arabic numerals if the consideration or transaction amount is shown in the instrument.
- (f) Information regarding state and/or county transfer taxes, including:
 - (i) The amount of money submitted with the instrument in payment of state and/or county transfer tax; and/or
 - (ii) A statement and undertaking that the person presenting the instrument will submit to the register of deeds concurrently with the instrument a valuation affidavit; and/or
 - (ii) A description of any exemption claimed from such transfer taxes.
- (g) Unless the instrument is an assignment or discharge of an interest granted in another instrument that is already a part of the land records of the applicable county, a description of each parcel of real property affected by the instrument, including each of the following to the extent applicable.
 - (i) For platted property or condominiums, the full subdivision or condominium name, lot or unit number(s) and, if applicable, liber and page where the subdivision is recorded;
 - (ii) For unplatted property, the original survey unit of each parcel, including the township, range, section and quarter-section where the parcel is located.
 - (iii) At the option of the register of deeds, the tax identification number and street address of the real property.
- (h) If the instrument is an assignment or discharge of an interest granted in another instrument that is already a part of the land records of the applicable county, the liber and page or other code under which the register of deeds indexed the instrument that is already a part of the land records.

- (i) The name and address of the person to whom the original instrument is to be returned by the register of deeds.
 - (j) If the instrument is one of two or more instruments presented to the register of deeds simultaneously, the respective order, if any, in which each of the several instruments is to be recorded.
 - (k) The name and address of the person presenting the instrument, if different from the return address in Subsection 2-101(5)(i).
- (6) A person may present an instrument to a register of deeds concurrently with two or more recording information summaries and, provided the instrument and each recording information summary conforms to the requirements of this Act, the register of deeds shall record such an instrument once for each registration information summary properly presented concurrently with the instrument and shall index each such recording of the instrument as though the original instrument had been submitted serially with each of the recording information summaries.
- (7) A register of deeds shall not refuse to record any instrument because there is a discrepancy between the information contained in the recording information summary and the information contained in the instrument. In the event such a discrepancy exists, the information contained in the recording information summary shall control for the purpose of establishing constructive notice.
- (8) A recording information summary does not change or modify the instrument to which it is attached.
- (9) If an instrument is executed after July 1, 2002, a register of deeds may permit presentment of, and may record, an instrument that is an electronic record and/or that is executed or acknowledged with one or more electronic signatures, provided that the instrument is capable of being received, reproduced, and indexed in accordance with of all the requirements of this section.
- (10) A recording fee as described in Section 2567 and 2567a of the Revised Judicature Act of 1961, as amended, being MCL §§ 600.2567-2567a, must be submitted with each instrument presented. The register of deeds may permit electronic transfers of funds for payment of fees and transfer taxes.
- (11) Any instrument recorded by a register of deeds shall be conclusively presumed to comply with this Act. The recording requirements contained in this section shall be cumulative to the requirements imposed by any other section or acts relating to the recording of instruments.

ARTICLE 3

THE RECORDING OFFICIAL

Section 3-101 Duties of the Register of Deeds

- (a) The register of deeds for each county shall maintain land records and a general index thereto of all other instruments recorded in accordance with this Act.
- (b) Only the office of the register of deeds shall provide a certified copy of any recorded instrument to any person upon tender of the proper fee.
- (c) The register of deeds shall record, maintain, index and provide instruments in accordance with this Act.

Section 3-102 Recording

- (a) A register of deeds shall indicate upon, append to, or associate with, each instrument presented the date of presentment.
- (b) In the event a register of deeds rejects an instrument for recording, the register shall strike, cross out or otherwise disassociate from the instrument the date of presentment as indicated according to section 3-102(a) and return the instrument to the presenter together with a statement indicating all reasons for rejection.
- (c) Upon presentment of an instrument that meets the requirements of Section 2-101 of this Act, a register of deeds shall mark on the face of or otherwise associate with the instrument the book, liber, page and/or any other identification code(s) used for indexing purposes.
- (d) A register of deeds shall promptly and accurately copy, transcribe or file all presented instruments that meet the requirements of Section 2-101 of this Act into its land records by hand, typewriting, photocopying, microfilm, microfiche, electronic, electromechanical, or other means.
- (e) A register of deeds shall not allow a presented instrument that meets the requirements of Section 2-101 of this Act to leave the control of that register of deeds or its duly appointed agents or permit the instrument to be altered or destroyed before it is recorded in the land records, indexed and marked (electronically, mechanically or otherwise) with an indication that it has been so recorded.

Section 3-103 Indexing

- (a) Each register shall maintain a general index of instruments he/she records and shall add each instrument he/she records to the index promptly after recording it and not more than 30 calendar days from the date of presentment of each instrument.
- (b) The entry in the general index for each recorded instrument shall contain:
 - (i) The book, page or other identification code(s) that indicate the location of the instrument within the land records; and
 - (ii) The names of parties to the instrument, a description of the real property that is the subject of the instrument (which description may be abbreviated), the type of instrument, and the date the recorder recorded the instrument as indicated, all as indicated in the recording information summary presented with the instrument.
- (c) A register of deeds may rely on the information supplied in the recording information summary and, if an instrument is indexed in accordance with the information supplied in the recording information summary, neither the register of deeds, the state nor any other government entity shall be liable to any person for loss resulting from error in indexing.
- (d) Upon recording and indexing each instrument, a register of deeds shall return the instrument to the person indicated on the recording information summary or that person's designee, together with a statement marked on the instrument or otherwise associated with the instrument containing:
 - (i) The date of presentment to the register of deeds;
 - (ii) The fact that the instrument has been recorded and indexed; and
 - (iii) The book, liber, page, or other identification code(s) that indicate the location of the instrument within the land records.

Section 3-104 Maintenance of General Index and Duplicate Indices

- (a) Each register of deeds shall keep a general index in which he or she shall enter alphabetically the name of each party to each instrument recorded by the register of deeds, with a reference to the book and page or other identification code(s) that identify the instrument's location in the land records. The register of deeds may maintain a separate index in which is entered all discharges and assignments of mortgages and other instruments together with a reference to the book and page or other identification code(s) that identify the discharged or assigned mortgage or other instrument's location in the land records.

- (b) Each index required or permitted by this Act may be maintained wholly, or in part, in electronic form.
- (c) Each register of deeds maintaining electronic indices shall maintain a duplicate of each of that register's electronic indices at a location separate from the location of the primary index, and shall update and otherwise maintain each duplicate index regularly.
- (d) The register of deeds shall secure each primary and duplicate index required or permitted by this Act that is maintained in electronic form using a code, key, or other system designed to prohibit an unauthorized person from altering the index.

Section 3-105 Facilities for Recording and Indexing Instruments

- (a) The general index books, equipment, supplies, services, storage media and all other necessary and proper facilities and resources needed to promptly receive, record and index instruments as required by this Act shall be furnished to the registers of deeds by the county commissioners in their respective counties.
- (b) Neither a register of deeds nor a county shall charge, authorize or collect any separate or additional fee for maintaining a general index or for providing public access to the land records, other than recording fees charged in accordance with section 2567 of the Revised Judicature Act, being MCL 600.2567.
- (c) A register of deeds shall not create or maintain any abstract of the title system, geographic index or tract index unless specifically authorized to do so by the board of commissioners in his or her respective county in accordance with Act No. 378 of the Public Acts of 1921, as amended, being MCL 53.141 et seq.
- (d) Recording fees charged and collected by a register of deeds for recording and indexing instruments shall not be used, allocated or expended for the creation or maintenance of any type of a geographic or tract index within the county.

Section 3-106 Failure to Record or Maintain Required Indices

- (a) Upon the order of any court of competent jurisdiction, that a register of deeds has failed, refused or neglected to record instruments, maintain an index, provide copies and access to records and files, or to perform any other duty required by this Act, the county shall transmit and forfeit all recording fees and other revenue received in conjunction with the recording and indexing of instruments to the court, which shall appoint a special master to assume responsibility for the recording and indexing of instruments in that county for a period specified by the court, but not to exceed the term of office for the then-current register of deeds. The court may issue a decree transferring the responsibility for recording and indexing submitted for recording to the register of deeds in that county, provided that any one of the following findings are made by the court.

- (i) That the register of deeds has failed, for any reason, to record, index and maintain more than 10% of all instruments presented to it and that meet the requirements of Section 2-101 of this Act, within 30 calendar days of presentment of said instruments;
 - (ii) That the register of deeds has failed or refused to maintain a general index or proper copy or reproduction of any recorded instrument for more than 10 consecutive business days; or
 - (iii) The register of deeds or the county has failed, neglected or refused to implement or install systems or processes necessary to accurately record, index, or provide copies or access to land records and indices within a reasonable time in accordance with this Act.
- (b) Proceedings for appointment of a special master may be commenced in any court of competent jurisdiction by any person or party injured by act or omission of a county or a register of deeds within one (1) year of the said date of the act or omission.

ARTICLE 4

REPRODUCTION, INSPECTION AND ACCESS TO RECORDS

Section 4-101 Inspection of Land Records

A register of deeds shall furnish proper and reasonable facilities for the inspection and examination of the land records it maintains and for making memoranda or transcripts from the land records during usual business hours. A register of deeds may make and administer such reasonable rules and regulations relating to the inspection, examination and duplication of the land records it maintains, as are necessary to protect the land records and to prevent interference with the regular discharge of his or her duties.

Section 4-102 Reproduction of Land Records

If a person requests a reproduction of all or part of the land records maintained by a register of deeds, that register of deeds shall reproduce such land records using the medium specified in the request, provided that the requested medium is authorized by the Records Media Act, Act No. 116 of the Public Acts of 1992, being sections 24.401 to 24.403 of the Michigan Compiled Laws, and provided further that the register of deeds then maintains the requested land records on the medium specified in the request.

Section 4-103 Access to Land Records

- (1) Upon the written consent of the person making the request, a register of deeds may satisfy a request under this section by either:
 - (a) Providing equipment and facilities for the person to use to reproduce the requested land records or
 - (b) Authorizing the person to reproduce the requested land records at a place specified by the register of deeds using equipment provided by that person.
- (2) A register of deeds may prohibit the reproduction of any record in the register of deeds' possession but that the register of deeds has not yet made a part of the land records.

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