

A Discussion of the Proposed Michigan Land Records Act

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I. Introduction

- A. Reasons behind the creation of a Document Recording Joint Task Force.
- B. The prospects of electronic recording.
- C. Inherent conflicts in recording paper and electronic media.

II. An Overview of Existing Recording Statutes

- A. Receiving documents and entry books.
 - 1. MCL 565.24—Scope of entry books.
 - 2. MCL 565.25—Effect of entry.
- B. Transcribing documents into a permanent record—MCL 565.26
- C. The creation of alphabetical indexes to the land records—MCL 565.28
- D. The effect of recording.—MCL 565.29

III. Identified Problems in the Land Recording System

- A. Timeliness of recording and indexing.
 - 1. “Gap” posting problems.
 - 2. The elimination of entry books.
- B. The integrity of the recording process.
 - 1. Ambiguity over recording dates and their impact.
 - a. 11 USC 547(e)(2)—10 day recording requirement to prevent the avoidable preference rule in bankruptcy.
 - b. MCL 570.1111—90 day recording requirement under the Michigan Construction Lien Act.
 - 2. Priority problems associated with delayed recording.
- C. Uniformity and predictability of recording requirements.
- D. Effective access to the land records.

IV. The Draft Michigan Land Records Act

- A. Article 1.
 - 1. Effect of the current statutes is preserved.
 - 2. Date of recording is settled.
 - 3. The common law of constructive notice is preserved.
- B. Article 2.
 - 1. Recording standards are streamlined by eliminating unnecessary requirements.
 - 2. Recording summary sheets are added.
 - a. Index criteria is standardized.
 - b. The recording process is automated.
 - c. Electronic recording is facilitated.
- C. Article 3.
 - 1. Recording processes are updated.
 - a. Entry books are eliminated.
 - b. Date of recording is clarified..
 - 2. Performance standards are established.

- a. Registers duties are clarified.
 - b. Judicial action to maintain recording effectiveness is facilitated.
- D. Article 4.
- 1. Effective access to the land records is ensured.
 - 2. Media choice is clarified.

V. Conclusion

- A. The Land Records Act will update our recording system.
- B. The Land Records Act will clarify and preserve the integrity of the recording process.
- C. The Land Records Act will facilitate the emergence of new conveyancing technologies.

Appendix A Land Records Act

View online at <http://www.icle.org/partners/materials/2002CP7195/20022C7195-exa.pdf>.

**Appendix B
Updating the Michigan Recording Statutes:
An Analysis of the House Bills 5022-5025 and the Draft Land Records Act**
View online at <http://www.icle.org/partners/materials/2002CP7195/20022C7195-exb.pdf>.