

SUBSTITUTE FOR
HOUSE BILL NO. 4817

A bill to amend 1846 RS 65, entitled
"Of alienation by deed, and the proof and recording of
conveyances, and the canceling of mortgages,"
by amending sections 41 and 44 (MCL 565.41 and 565.44).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 41. (1) ~~A~~ Within the applicable time period in
2 section 44(2) after a mortgage has been paid or otherwise
3 satisfied, the mortgagee or ~~his~~ the personal representative,
4 successor, or assign ~~, within 90 days after a mortgage has been~~
5 ~~paid or otherwise satisfied and discharged,~~ of the mortgagee
6 shall prepare ~~and file~~ a discharge ~~thereof~~ of the mortgage,
7 file the discharge with the register of deeds for the county
8 where the mortgaged property is located, and pay the fee for
9 recording the discharge.

10 (2) If a discharge of mortgage received by a register of
11 deeds under subsection (1) is not recorded on the day it is

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1 received, the register of deeds shall place on or attach to the
 2 discharge, by means of a stamp, electronically, or otherwise, the
 3 date the discharge is received. The date placed on or attached
 4 to the discharge under this subsection is prima facie evidence of
 5 the date the discharge was **[filed with]** the register of deeds.

6 Sec. 44. (1) If ~~any mortgagee, or his~~ **a mortgagee or the**
 7 **personal representative or assignee of the mortgagee,** ~~as the~~
 8 ~~case may be,~~ after full performance of the condition of the
 9 mortgage, whether before or after a breach ~~thereof~~ **of the**
 10 **mortgage,** or, if the ~~same be~~ **mortgage is** entirely due, ~~and~~
 11 ~~payable,~~ after a tender of the whole amount ~~so due and payable~~
 12 ~~thereon, shall, for the space of 7 days~~ **due, within the**
 13 **applicable time period in subsection (2)** after being ~~thereto~~
 14 requested ~~,~~ and after tender of ~~his~~ **the mortgagee's**
 15 reasonable charges, ~~refuse or neglect~~ **refuses or neglects** to
 16 discharge the ~~same~~ **mortgage** as provided in this chapter ~~,~~ or
 17 to execute and acknowledge a certificate of discharge or release
 18 ~~thereof, he shall be~~ **of the mortgage, the mortgagee is** liable
 19 to the mortgagor ~~,~~ ~~his~~ **or the mortgagor's** heirs or assigns ~~,~~
 20 ~~in the sum of 100 dollars~~ **for \$1,000.00** damages. ~~,~~ ~~and also~~
 21 ~~for~~ **The mortgagee is also liable for** all actual damages ~~,~~
 22 ~~occasioned by such~~ **caused by the** neglect or refusal ~~,~~ to the
 23 person who ~~shall perform~~ **performs** the condition of ~~such~~ **the**
 24 mortgage ~~,~~ or ~~make such~~ **makes the** tender to the mortgagee ~~,~~
 25 ~~his~~ **or the mortgagee's** heirs or assigns, or to ~~any one~~ **anyone**
 26 who ~~may have~~ **has** an interest in the mortgaged premises. ~~,~~ ~~to~~
 27 **Damages under this section may** be recovered in an action ~~on the~~

1 ~~case, or be awarded by a court of equity upon a bill filed for~~
2 **money damages or** to procure a discharge ~~, or a~~ release of
3 ~~such the~~ mortgage. ~~, with~~ **The court may, in its discretion,**
4 **award** double costs ~~, in the discretion of the court in an~~
5 **action under this section.**

6 (2) The discharge of mortgage, execution and acknowledgment
7 of a certificate, or filing of a discharge of mortgage required
8 by this section or section 41 shall be performed within whichever
9 of the following time periods is applicable:

10 (a) For the first 2 years after the effective date of the
11 amendatory act that added this subsection, 75 days.

12 (b) Beginning 2 years after the effective date of the
13 amendatory act that added this subsection, 60 days.