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ELIMINATION OF WITNESS REQUIREMENTS

House Bills 5022-5025

Sponsor: Rep. Alan Sanborn

Committee: Local Government and
Urban Policy

Complete to 7-23-01

A SUMMARY OF HOUSE BILLS 5022-5025 AS INTRODUCED 7-11-01

House Bills 5022-5025 would each eliminate witness requirements for certain documents concerning the conveyance of land that must be recorded with the register of deeds.

House Bill 5022 would amend Chapter 65 of the Revised Statutes of 1846 (MCL 565.8 and 565.47), which covers alienation by deed, the proof and recording of conveyances, and the canceling of mortgages, to eliminate witness requirements from the procedures for recording deeds and mortgages. Currently the law requires that deeds of lands, or any interest in lands, be executed in the presence of two witnesses. The law allows the persons executing the deeds to acknowledge the execution before any judge, clerk of a court of record or notary public within the state. The bill would eliminate the witness requirement, requiring only that such deeds be acknowledged before any judge, clerk of a court of record, or notary public within the state.

House Bill 5024 would amend Public Act 237 of 1879 (MCL 565.351), which covers land contracts, to eliminate the requirement that “contracts for the sale of land or any interest therein” be executed in the presence of two witnesses and the vendor named in the contract. The bill would specify only that such contracts must be acknowledged before a judge or notary public within the state.

House Bill 5023 would amend Public Act 103 of 1937 (MCL 565.201), which sets forth requirements for recording with a county’s register of deeds instruments executed after October 29, 1937 by which the title to, or any interest in, real estate is conveyed, assigned, encumbered, or otherwise disposed of. The bill would make several changes related to the law’s requirement that the name of a person be “printed, typewritten or stamped upon such instrument immediately beneath the signature” of the person. First, the bill would eliminate a provision in the law that explicitly defines the phrase and acknowledges the authority of the register of deeds to determine whether the name and the signature are “so placed upon the instrument as to render the connection between the two apparent.” In accordance with current law, however, any instrument received and recorded by a register of deeds would be conclusively presumed to comply with the act. Second, the bill would eliminate a requirement that the name of each witness to the instrument be printed, typewritten, or stamped upon the instrument immediately beneath the signature of the witness. Third, the bill would no longer specify that the name of each person who executes an instrument be legibly printed, typewritten, or stamped immediately beneath his or her signature. Instead, the bill would state simply that the name must be legibly printed, typewritten, or stamped within the acknowledgment or jurat.

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The bill would make two other changes to the law. First, the law explicitly states that there can be no discrepancy between the name of a person as it appears either in the body of the instrument or in the acknowledgement or jurat and the name of a person as it appears in the signature of the person. The bill would eliminate this specification. Second, the bill states that an instrument that complied with the provisions of the act and any other act relating to the recording of instruments could not be rejected for recording because of a failure to comply with any other statute or rules.

House Bill 5025 would amend the Land Division Act (MCL 560.144) to eliminate the requirement that the signing of a proprietor's certificate on a final plat be witnessed by two persons. (A plat is a map or chart of a subdivision of land. A proprietor's certificate must be signed and submitted for approval in accordance with other provisions of the act to entitle a final plat of subdivided land to be recorded by the register of deeds.)

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