

MARKETABLE RECORD TITLE (EXCERPT)
Act 200 of 1945

565.104 Marketable record title; failure to record notice not to bar right to possession; applicability to government property or oil and gas interests.

Sec. 4.

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

(a) Bar a lessor or a lessor's successor as reversioner of the lessor's right to possession on the expiration of a lease or a lessee or the lessee's successor of the lessee's 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, or if the instrument has been executed by a railroad, railroad bridge, tunnel, union depot company, or 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.

(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 record the notice required under this act, if the easement, observable or not, is for any of the following:

(i) The operation, installation, construction, maintenance, improvement, repair, removal, replacement, or protection of a pipe, driveway, trailway, valve, road, wire, cable, conduit, duct, sewer, drain, track, substation, pole, tower, or electric generation facility, energy storage facility or other energy facility, stormwater or drainage facility, utility facility, or any other physical facility, 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 restrictions:

(i) A restrictive covenant or other recorded instrument 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 324.101 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 on 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 the declaration or other instrument or agreement 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.

(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, lake level assessment district, drainage district, or other political subdivision of this state.

(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.

History: 1945, Act 200, Eff. Sept. 6, 1945 ;-- Am. 1946, 1st Ex. Sess., Act 25, Imd. Eff. Feb. 26, 1946 ;-- Am. 1947, Act 117, Imd. Eff. May

22, 1947 ;-- CL 1948, 565.104 ;-- Am. 1951, Act 235, Eff. Sept. 28, 1951 ;-- Am. 1965, Act 323, Eff. Mar. 31, 1966 ;-- Am. 2018, Act 572, Eff. Mar. 29, 2019 ;-- Am. 2022, Act 235, Eff. Mar. 29, 2023 ;-- Am. 2025, Act 13, Imd. Eff. Sept. 29, 2025