

MEMORANDUM

TO: Real Property Law Section Council

FROM: Mike Luberto

DATE: June 22, 2022

SUBJECT: Legislative Committee - Report

1. **Monthly Call.** The ad hoc Legislative Committee met via conference call Tuesday, June 7, 2022, to discuss recent legislation.
2. **New Proposed Legislation - updates.** Legislation affecting real estate that we are tracking is referenced on the attached Report of Introduced Legislation.
 - SB 926 (definition of person in the limited liability company act to include nonprofit corporations) The Legislative Committee asked Tabitha to contact the sponsor's office to determine if they also meant to expand the term "corporation" in MCL 450.4102(2)(e) to include nonprofit corporations.
 - i. <http://legislature.mi.gov/doc.aspx?2022-SB-0926> . introduced on March 1, 2022. **Passed the Senate** on April 28, 2022, 34-0.
 - ii. SB 926 has great momentum. It impacts local non profit organizations that want to form limited liability construction companies. Funds in the supplemental budget are earmarked for non-profits to build and develop workforce housing.
 - iii. Sponsors are concerned that making any modifications may slow down the momentum to pass the legislation tied to this funding. **Update: Passed the House** on 6-21-22. (324 Yeas, 103 Nays)
 - SB 1020 (establish for contractors to pay subcontractors and suppliers in a timely manner) Council may want to discuss whether it falls within our purview and if so, taking a position on this legislation. It addresses mandatory terms in private construction contracts. Tabitha looked into it and found that it is the work product of a subcontractor association represented in Lansing known as the Construction Association of Michigan. They have introduced this bill every session for 6 years and has never received a hearing. Tabitha advised that there are many groups in Lansing opposed to the bill. If we take a position and provide an opinion, she will deliver it to the sponsors. The concern is to make sure this does not get legs during lame duck. Tabitha has requested that we send her our position as soon as possible. RPLS member John Sier agreed to prep a memo on this SB. It is attached. It was referred to the RPLS Construction Committee review and comment on the points in the memo.
 - i. <http://legislature.mi.gov/doc.aspx?2022-SB-1020>
 - ii. It is recommended that a motion is made to vote on a position for this legislation.

3. Bills of Interest.

- **Remote Notarization legislation:**

- HB 5759 was introduced on February 16, 2022.
 - The Board of Commissioners for the State Bar of Michigan decided to support this legislation. The SBM Bylaws provide that: “A State Bar Section may not advocate a policy position on behalf of the Section that is inconsistent with State Bar policy, unless expressly authorized to do so by a majority vote of the Board of Directors or Representative Assembly.” Article VIII, Section 7(2). Accordingly, we may not take a contrary position. We did submit our comments timely to the State Bar with respect to drafting concerns. Tabitha also gave a copy of our comments to the sponsor of the legislation. They are not expecting this legislation to move prior to the end of the spring session.

Short-Term Rental related:

- HB 4722, [2021-HEBH-4722.pdf \(mi.gov\)](#) (<http://legislature.mi.gov/doc.aspx?2021-HB-4722>) This is also known as the “Realtor Bill”. It is the “ban on the ban” bill. Linked is the substitute version that was passed by the House on 10-27-21 (at 2 am, I believe).
- HB 5605 (12/8/21) Taxation: excise taxes; excise tax on business of providing accommodations to include certain short-term rentals; modify. Creates new act. <http://legislature.mi.gov/doc.aspx?2021-HB-5605>
- SB 880, Creates short-term rental regulation act. Tie Bar with HB 4722.
 - Drafting of substitute bill is in progress. Tabitha will send us the substitute bill once its finalized.
 - <http://legislature.mi.gov/doc.aspx?2022-SB-0880>
 - SB 880 and HB 5605 will likely be close to identical after revisions.
- **Uniform Assignment of Rents Act** – HB 4799 – Presented to Governor 6-21-22
<http://legislature.mi.gov/doc.aspx?2021-HB-4799>

HB 4799 passed the House on January 27, 2022. HB 4799 passed the Senate on June 15, 2022.

4. Potential Future Action.

- **Marketable Record Title Act** – Tabitha will follow up again with Senator Wozniak. A secondary concern once the legislation is introduced is how to give this type of legislation some momentum and hold the interest of the other legislators.
- **Prior Tax Foreclosure Amendments (issue with MCL §781(1))** – the Section’s lobbyist is working to assist us in trying to fix the problem the Section previously identified with this legislation [see November 2020 Legislative Report].

5. Pending Legislation; Positions

- **Construction Lien Act Amendment** – HB 4668
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4668.pdf>

Position: At the May 12, 2021 Council meeting, Council voted to oppose this Bill.

- **Prohibited Restrictive Covenants Act – HB 4416**
(<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4416.pdf>)

Position: At the May 12, 2021 Council meeting, Council voted to oppose this Bill. According to Tabitha, Representative Anthony is trying to move this legislation. David Pierson has had discussions with the primary sponsor of the bill, Rep Anthony. Some of our requested changes were made. David will be making some comments on their proposed discharge form.

6. **Additional matters.**

- Land Contract Reform Initiative – On June 20, 2022, David Pierson and Dawn Patterson were invited to a call with Samuel Buchalter of MSHDA to discuss his concerns regarding the initiative. He would like to have RPLS approve his proposed draft before it is introduced. David Pierson shared our comments. Mr. Buchalter agreed that clarification will be added that this intended legislation will not apply to commercial real estate.
- MSHDA Missing Middle Housing Program introduced. \$50 million in funding. Please see attached report for further information.