

MEMORANDUM

TO: Real Property Law Section Council

FROM: Dawn M. Patterson

DATE: November 12, 2021

SUBJECT: Legislative Committee - Report

1. **Monthly Call.** The ad hoc Legislative Committee met via conference call Tuesday, November 2, 2021, to discuss recent legislation.
2. **New Proposed Legislation.** New Legislation affecting real estate is referenced on the attached Report of Introduced Legislation. Tabitha indicated that the recent focus has been on redistricting maps.
3. **Bills of Interest.**
 - **Short-Term Rental related:**
 - HB 4722, [2021-HEBH-4722.pdf \(mi.gov\)](http://legislature.mi.gov/doc.aspx?2021-HB-4722) (<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).
 - There are several short term rental bills pending and it is believed that another one related to enforcement will soon be introduced. Tabitha shared her notes with me on the various bills and I have attached it to this report.
 - **Uniform Assignment of Rents Act – HB 4799**
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4799.pdf>
4. **Potential Future Action.**
 - **Marketable Record Title Act** –Tabitha is working on a sponsor and hopes to have it introduced prior to year-end. Tabitha discussed approaching Rep Sarah Anthony and possibly, Rep Doug Wozniak.
 - **Prior Tax Foreclosure Amendments (issue with MCL §78I(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.** Except as noted above, none of the current bills on which the Council previously took action have been acted upon.

- **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.

6. **Additional matters.**

- a. Mobile Homes - Affidavit of Affixtures
 - i. The affidavit of affixture program has been migrated to the Michigan Department of State. If you have any questions on this program, you may use the following methods for contacting the department:

Michigan Department of State
Office of Customer Records
Vehicle Records Activity Unit
PO Box 30045
Lansing, MI 48909-9798

Central Phone: 517-636-7476
EMAIL: MDOS-MobileHomeAffidavits@Michigan.gov

Short-Term Rental Legislation			
2021-2022 Legislative Session			
Bill Number	Bill Sponsor	Party	Description
SB 446	Sen. Nesbitt	R	Prevent local units from using zoning to exclude short-term rentals
SB 547	Sen. Horn	R	"Short-Term Rental Regulation Act" - database of rentals and insurance coverage
SB 594	Sen. McBroom	R	Provides for the option for a county to enact a "tourism reinvestment excise tax" not to exceed 3% of room charge if the majority of voters in that county approve. Provides for fines for nonpayment of the excise tax.
SB 595	Sen. McBroom	R	Include assessment for regional marketing in short-term rental room charges
HB 4722	Rep. Lightner	R	Local units of government could not adopt or enforce zoning ordinances that effectively prohibit short-term rentals
HB 4985	Rep. Damoose	R	Make short-term rental subject to special use or conditional use permit or procedure
HB 5172	Rep. Cambensey	D	Provides for the option for a county to enact a "tourism reinvestment excise tax" not to exceed 3% of room charge if the majority of voters in that county approve. Provides for fines for nonpayment of the excise tax.
HB 5173	Rep. Cambensey	D	Include assessment for regional marketing in short-term rental room charges
HB 5377	Rep. Roth	R	Modifies community convention tourism act
HB 5378	Rep. Anthony	D	Modifies convention and tourism marketing act program notice and referendum requirements
HB 5379	Rep. Martin	R	Modifies convention and tourism marketing act program notice and referendum requirements
HB 5465	Rep. Ellison	D	Creates short-term rental regulation act.
HB 5466	Rep. Tisdell	R	Amends Michigan zoning enabling act to include short-term rentals.
HB 5521	Rep. Cambensy	D	Modifies excise tax on business of providing accommodations to include certain short-term rentals in the Upper Peninsula.

(Tabitha's notes)

**RPLS LEGISLATIVE COMMITTEE
REPORT OF INTRODUCED LEGISLATION
(July 30, 2021 through November 1, 2021)**

HOUSE BILLS:

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| HB 5465 | Housing: other; short-term rental regulation act; create. Creates new act. http://legislature.mi.gov/doc.aspx?2021-HB-5465 |
| HB 5466 | Land use: zoning and growth management; Michigan zoning enabling act; amend to include short-term rentals. Amends 2006 PA 110 (MCL 125.3101 - 125.3702) by adding sec. 206b. http://legislature.mi.gov/doc.aspx?2021-HB-5466 |
| HB 5386 | Townships: financing; creation of special assessment districts; allow under certain circumstances. Amends sec. 2 of 1972 PA 139 (MCL 247.392). http://legislature.mi.gov/doc.aspx?2021-HB-5386 |
| HB 4289 | Individual income tax: other; Michigan first-time home buyer savings program act; create. Creates new act. TIE BAR WITH: HB 4290'21 http://legislature.mi.gov/doc.aspx?2021-HB-4289 |
| HB 4290 | Individual income tax: deductions; tax incentive for contributions made to first-time home buyers program; provide for. Amends sec. 30 of 1967 PA 281 (MCL 206.30). TIE BAR WITH: HB 4289'21 http://legislature.mi.gov/doc.aspx?2021-HB-4290 |

Mobile Homes related bills:
HB 5396-5403

SENATE BILLS:

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| SB 671 | Proposed revisions to eligibility requirements for transformational brownfield plans. http://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0671.pdf |
| SB 145 | Individual income tax: other; Michigan first-time home buyer savings program act; create. Creates new act. TIE BAR WITH: SB 0146'21, http://legislature.mi.gov/doc.aspx?2021-SB-0145 |
| SB 146 | Individual income tax: deductions; tax incentive for contributions made to first-time home buyers program; provide for. Amends sec. 30 of 1967 PA 281 (MCL 206.30). TIE BAR WITH: SB 0145'21 http://legislature.mi.gov/doc.aspx?2021-SB-0146 |
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PRIOR REPORTS:

HOUSE BILLS:

- 4180: Amends MCL 554.607 to allow a tenant to request that landlord apply security deposit to rent obligation during a declared emergency.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4180.pdf>
- 4181: Amends MCL 600.101 et seq (revised judicature act) to limit residential landlord’s remedies for a certain period following the end of COVID-19 state of emergency.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4181.pdf>
- 4183: Amends MCL 125.532 (housing law of Michigan) to provide a procedure for landlords to notify residential tenants of a violation/condemnation issue.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4183.pdf>
- 4185: Amends MCL 211.44a (general property tax act) to provide certain property owners the ability to apply for a waiver of interest and penalties for summer 2020 property taxes.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4185.pdf>
- 4259: Amends MCL 600.101 et seq (revised judicature act) to prevent residential evictions during the COVID-19 state of emergency.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4259.pdf>
- 4416: Creates a new statute, titled the “prohibited restrictive covenants act”, which would (a) prohibit certain restrictions from being included in a recorded document and (b) provide a method for an association to amend existing documents.¹**
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4416.pdf>
- 4417: Amends MCL 559.190 (condominium act) to allow a condominium association to amend existing documents that include prohibited restrictions without consent of co-owners or mortgagees.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4417.pdf>
- 4496: Amends 1893 PA 206 (“general property tax act”) to make delinquent property tax installment payment plans and tax foreclosure avoidance agreements available for certain commercial property.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4496.pdf>
- 4641: Amends 1992 PA 147 (neighborhood enterprise zone act) to allow for 180-day extension of an NEZ certificate issued prior to March 23, 2020.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4641.pdf>
- 4647: Creates “attainable housing and rehabilitation act” to establish attainable housing districts in certain municipalities, and allow for an owner of certain low-income residential rental property to obtain property tax exemption on the qualified facility (but not the land) for up to 12 years.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4647.pdf>

- 4668: **Amends 1980 PA 497 (construction lien act) to (i) require any contractor who is required to be licensed to display such license (or, if not presented in person, to attach copies of his license/personal id to the claim of lien) at the time it records a claim of lien, and (ii) state that a register of deeds shall not accept a claim of lien to be recorded from a contractor who is required to be licensed unless the contractor displays such license or attaches such license to the claim.**²
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4668.pdf>
- 4676: Amends 1972 PA 348 (re: landlord and tenant relationships) to allow a tenant to be released from his/her residential rental agreement if they are a witness or victim of domestic violence, sexual assault or other physical crime.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4676.pdf>
- 4722: **Amends 2006 PA 110 (Michigan zoning enabling act) to provide that short-term rentals are a permitted residential use in all residential zones and are not subject to special use or conditional use permits or procedures.** [NOTE: This is a re-introduction of the prior bill from the 2019/2020 legislative session.]³
<https://www.legislature.mi.gov/documents/2021-2022/billengrossed/House/pdf/2021-HEBH-4722.pdf> (as passed by House)
- 4724: Amends 1931 PA 328 (Michigan penal code) to exclude from the anti-eavesdropping statute for recording if it is part of a home security system.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4724.pdf>
- 4729-4732: Amends various statutes to require local governmental entities to charge the same rate for producing copies of public records as they would be required under FOIA.
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4729.pdf>
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4730.pdf>
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4731.pdf>
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4732.pdf>
- 4799: **Creates “Michigan uniform assignment of rents act” to provide for security interest in rents.**⁴
<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4799.pdf>
- &
4800: Civil procedure: other; action regarding assignment of rents; clarify that action does not constitute an action under the "one-action" rule. Amends sec. 3204 of [1961 PA 236](#) (MCL [600.3204](#)). TIE BAR WITH: [HB 4799'21](#) <http://legislature.mi.gov/doc.aspx?2021-HB-4800>
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- 4825: Amends sec. 57 of 1978 PA 59 (MCL 559.157) & adds sec.131a to the Condominium act that provides audit requirements for the condo association, This includes the requirement that the audit contain of list of co-owners that have a delinquency of 6 months of more. Sec 131a provides that if an association of co-owners proposes an assessment that is more than \$2,500.00 per co-owner or more than a 50% increase in annual dues, the association of co-owners must vote on the assessment and approve the assessment by a 2/3 vote of its members.
- Summary:
-Amendment to the Michigan Condominium Act to revise Sections regarding requirements for annual financial audits of the Association records and books.
- Requires associations which opt out of performing annual financial audit under the Condo Act to, at a minimum, have their books and records independently audited every 5 years.
- Five year audit must verify that all dues have been collected, contain a list of delinquencies, identify payments made to any co-owner or business in which a co-owner has an interest, and confirm proper documentation exists to support those payments, confirm that HOA is following applicable laws and process for collecting past dues assessments, and confirm interest rates charged on past due assessments, provide narrative of budget items that exceed a 50% increase from budgeted amount, provide accounting of reserve fund, among other terms.

-Also provides a voting mechanism for approval on assessments that are more than \$2,500 per co-owner or represent more than a 50% increase in annual dues (must have 2/3 co-owner approval). Also provides mechanism for arbitration if the HOA believes the assessment are necessary, but such assessments are not approved by 2/3 of co-owners.

<https://www.legislature.mi.gov/documents/2021-2022/billintroduced/House/pdf/2021-HIB-4825.pdf>

- 4827: Creates a new act. -A bill to provide for the establishment of residential housing districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain qualified residential facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain state and local governmental officials; and to provide penalties.
<http://legislature.mi.gov/doc.aspx?2021-HB-4827>
- 4834 Amends 1893 PA 206 (MCL 211.1 - 211.155) by adding sec. 9p. TIE BAR WITH: HB 4833'21
-Bill to amend the General Property Tax Act.
- Beginning December 31, 2021 and each year thereafter, qualified heavy equipment rental personal property for which an exemption has been properly claimed is exempt from the collection of taxes under this act.
-A qualified renter shall claim the exemption under this section by filing each year with the local assessing unit in which is located the qualified renter business location a statement that includes the form to claim the exemption under this section and a statement of all qualified heavy equipment rental personal property for which the exemption is claimed.
<http://legislature.mi.gov/doc.aspx?2021-HB-4834>
- 5011 & 5012: Expands the range of development (including multi-family) and energy projects (now to include hazardous material cleanup) that can be financed with a special assessment (including the sale of bonds).
<http://legislature.mi.gov/doc.aspx?2021-HB-5011> & <http://legislature.mi.gov/doc.aspx?2021-HB-5012>
- 5172 & 5173: HB 5172 creates a new act and provides for taxation on short-term rentals. HB 5173 amends secs. 2 & 5 of 1989 PA 244 (MCL 141.892 & 141.895) and adds the term "Short-term rental" to the Regional tourism marketing act.
<http://legislature.mi.gov/doc.aspx?2021-HB-5172> & <http://legislature.mi.gov/doc.aspx?2021-HB-5173>
- 5293 Land use: zoning and growth management; definition of state licensed residential facility; increase number of children receiving care at certain child caring institutions. Amends sec. 102 of [2006 PA 110](#) (MCL [125.3102](#)). <http://legislature.mi.gov/doc.aspx?2021-HB-5293>
- 5326 Property tax: assessments; valuation of wind energy systems; clarify. Amends sec. 27 of [1893 PA 206](#) (MCL [211.27](#)). <http://legislature.mi.gov/doc.aspx?2021-HB-5326>
- 5329 Property tax: assessments; designated assessor on requirement; provide opt-out option. Amends sec. 10g of [1893 PA 206](#) (MCL [211.10g](#)). <http://legislature.mi.gov/doc.aspx?2021-HB-5329>
- 5337 Property tax: Headlee; calculation of Headlee rollback; modify. Amends sec. 34d of [1893 PA 206](#) (MCL [211.34d](#)). <http://legislature.mi.gov/doc.aspx?2021-HB-5337>
- House Joint Resolution J (2021):
Proposes an amendment to the state constitution as to Article I and Article X to remove gender limitations.
<http://legislature.mi.gov/doc.aspx?2021-HJR-J>
- Many bills are tie-barred with HJR-J for revisions to gender neutral revisions including HB 5217-5231 and HB 5232-5235 and HB 5249.

SENATE BILLS:

- 671 Proposed revisions to eligibility requirements for transformational brownfield plans. <http://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0671.pdf>
- 112: Amends MCL 211.44a (general property tax act) to provide certain property owners the ability to apply for a waiver of interest and penalties for summer 2020 property taxes. <https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0112.pdf>
- 127: Amends MCL 205.731 (tax tribunal act) to provide that the tax tribunal does not have exclusive or original jurisdiction over a matter if a decision is a necessary predicate to a claim based on a federal law violation guaranteeing a civil right. <https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0127.pdf>
NOTE: This bill is intended to overturn *Morningside Community Org. v. Wayne County Treasurer*, Case No. 336430 (MI Ct. of App. 2017) in its construction of section 31 of the tax tribunal act.
- 243: Amends MCL 211.44a (general property tax act) to provide certain property owners the ability to apply for a waiver of interest and penalties for summer 2020 property taxes. <https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0243.pdf>
- 362: Creates “attainable housing and rehabilitation act” [see HB 4647, above] <https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0362.pdf>
- 403: Amends 1893 PA 206 (general property tax act) to allow a resident in a nursing home to continue to claim PRE even if he/she is renting the home to a child or grandchild. <https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0403.pdf>
- 413: Amends 1972 PA 348 (re: landlord and tenant relationships) to require a landlord to notify its tenant, in writing, not more than 30 days after the rental property is return as delinquent or foreclosure proceedings are commenced. <https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0413.pdf>
- 422: Creates “residential housing facilities act” to establish residential housing districts in certain municipalities and allow for the owner of owner-occupied residential property to obtain property tax exemption on the qualified facility (but not the land) for up to 12 years. <https://www.legislature.mi.gov/documents/2021-2022/billintroduced/Senate/pdf/2021-SIB-0422.pdf>
- 432: Amends sec. 15a of 1966 PA 346 (MCL 125.1415a). Provides for payment in lieu of taxes for rural workforce housing projects. <http://legislature.mi.gov/doc.aspx?2021-SB-0432>
- 446: Amends 2006 PA 110 (MCL 125.3101 - 125.3702) by adding sec. 206b. Amends the Michigan zoning enabling act to include short-term rentals. <http://legislature.mi.gov/doc.aspx?2021-SB-0446>

- 459: Amends sec. 4 of 1992 PA 147 (MCL 207.774). PRESENTED TO GOVERNOR 07/21/2021 10:46 AM This amends the Neighborhood Enterprise Zone Act to add a specific exception that would allow an application for a neighborhood enterprise zone (NEZ) certificate to be filed after a building permit has already been issued for the project.
<http://legislature.mi.gov/doc.aspx?2021-SB-0459>
- 472: Amends sec. 7 of 1993 PA 92 (MCL 565.957) to modify the Seller's Disclosure Statement, including an added representation regarding flood zones.
<http://legislature.mi.gov/doc.aspx?2021-SB-0472>
- 539: Amends sec. 7b of 1893 PA 206 (MCL 211.7b). TIE BAR WITH: SB 0540'21 This provides for reporting requirements for reimbursement of lost tax revenue due to the disabled veterans property tax exemption.
<http://legislature.mi.gov/doc.aspx?2021-SB-0539>
- 540: Amends sec. 17 of 2014 PA 86 (MCL 123.1357). TIE BAR WITH: SB 0539'21 This provides for reimbursement to certain municipalities for lost property tax revenue due to homestead exemptions for certain disabled veterans.
<http://legislature.mi.gov/doc.aspx?2021-SB-0540>
- 541: Amends 1893 PA 206 (MCL 211.1 - 211.155) by adding sec. 7c. This creates property tax: exemptions for surviving spouses of certain military service members who died from service-connected causes.
<http://legislature.mi.gov/doc.aspx?2021-SB-0541>
- 547: Creates a new act – the short-term rental regulation act. It creates a statewide registry for all short term rentals over 14 days per year and regulates and taxes hosting platforms.
<http://legislature.mi.gov/doc.aspx?2021-SB-0547>
- 589: Amends secs. 1, 2 & 3 of 1970 PA 132 (MCL 54.211 et seq.) This modifies certified survey map requirements and requires grantor or lessor to record the certified survey if the land is surveyed into parcels under the Land Division Act.
<http://legislature.mi.gov/doc.aspx?2021-SB-0589>
- 593: Creates a new act to provide and authorize fees for sewage and municipal stormwater utilities. It provides for the allocation of the costs of planning, constructing, operating, maintaining, financing, and administering a stormwater system to real property served by the stormwater system.
<http://legislature.mi.gov/doc.aspx?2021-SB-0593>
- 594: Creates a new act to provide for the imposition of a hotel-motel tourism reinvestment excise tax for certain counties. This affects short-term rentals by allowing Michigan counties to levy up to 3% tax on short-term rental rooms. This new bill provides for the levy, collection, and administration of an excise tax on room charges of certain short-term transient facilities by transient guests; provides for the disposition of the proceeds of the excise tax; prescribes the powers and duties of certain state departments, local units of government, and state and local officials; provides for certain penalties; and provides for certain exemptions.
<http://legislature.mi.gov/doc.aspx?2021-SB-0594>
- 595: Amends secs. 2 & 5 of 1989 PA 244 (MCL 141.892 & 141.895) of the Regional Tourism Marketing Act to include short-term rentals.
<http://legislature.mi.gov/doc.aspx?2021-SB-0595>
- 627: Land use: other; remonumentation of the Indiana-Michigan state line; provide for. Creates and repeals new act. <http://legislature.mi.gov/doc.aspx?2021-SB-0627>

State financing and management: funds; state survey and remonumentation fund; revise to allow expenditures for monumentation of state border. Amends sec. 12 of 1990 PA 345 (MCL 54.272).
TIE BAR WITH: SB 0627'21 <http://legislature.mi.gov/doc.aspx?2021-SB-0628>

¹ At the May 12, 2021 Council meeting, Council voted to oppose this Bill.

² At the May 12, 2021 Council meeting, Council voted to oppose this Bill.

³ This legislation may see movement this Fall.

⁴ This legislation may see movement this Fall.