

MEMORANDUM

TO: Real Property Law Section Council

FROM: Gregory J. Gamalski

DATE: May 8, 2020

SUBJECT: Legislative Report

1. Executive Orders; SCAO Actions

Notaries.

New Executive Order Executive Order 2020–74, essentially continues prior Executive Order 2020–41 until June 30. One change is that the return of a completely notarized document to the signer can now be done within 72 hours instead of the original one day turnaround. See also related action by the Michigan Electronic Recording Commission below.

Executive Order 2020-74

https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-528192--,00.html

Executive Order 202-41

https://www.michigan.gov/whitmer/0,9309,7-387-90499_90705-525178--,00.html

Evictions.

Under Executive Order 2020–54 and guidance from the Michigan Supreme Court Administrator Office actions related to evictions continued to be stayed. See Supreme Court Administrators Office Memorandum dated April 20, 2020, State Court Administrators Memo dated April 14, 2020 and Supreme Court Administrative Order 2020–8. Administrative Order Number 2020–8 specifically states that there is a moratorium until July 25, 2020 on the filing a summary proceeding actions except in emergency situations. Furthermore Executive Order 2020–54 while allowing for a demand for payment of rent may not include a demand for possession or other threat of eviction until after May 15, 2020. It would not be unexpected if the May 15 date was further revised.

Executive Order 2020-54

https://content.govdelivery.com/attachments/MIEOG/2020/04/17/file_attachments/1430366/EO%202020-54%20Emerg%20order%20-%20evictions%20-%20re-issue.pdf

Supreme Court Administrative Order Number 2020–8

https://courts.michigan.gov/Courts/MichiganSupremeCourt/rules/court-rules-admin-matters/Administrative%20Orders/2020-08_2020-04-16_FormattedOrder_AO2020-8.pdf

SCOA Memorandum April 20, 2020

<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/COVID-19/Evictions.pdf>

SCAO Memorandum April 14, 2020

<https://courts.michigan.gov/Administration/SCAO/Resources/Documents/COVID-19/SummaryProceedings.pdf>

2. **Michigan Electronic Recording Commission.** On April 23, 2020 the Michigan Electronic Recording Commission adopted Standards with respect to requirements for acceptance of documents for electronic recording. While registers of deeds are not required to accept electronic documents for recording registers of deeds who do elect to do so must comply with the Standards. It seems possible that electronic recording might become more widely accepted now that Standards have been announced for the benefits of registers of deeds electing to do so.

Michigan Electronic Recording Commission Standards.

https://www.michigan.gov/documents/dtmb/Michigan_ERC_Report_v1.9_04232020-FINAL_688536_7.pdf

3. **Monthly Call.** The Committee monthly call will take place later this month.
4. **Marketable Title Act.** A bill extending the effective date of Pubic Act 572 of 2018 which amended the Marketable Title Act, has been introduced and is in committee. It would move the effective date of the act to March 29, 2024. It is not yet advanced. See <https://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2020-HIB-5611.pdf>
5. **Bills of Interest.**

The following legislation of interest has been introduced since the last report. While it does not appear in any of the newly introduced legislation are matters on which section would ordinarily take a position consideration should be given to a possible positions on Senate Bill 905 regarding display of flags rebellion on the Capitol premises and a potential adjustment to the way rents are handled in month-to-month tenancies, tenancies Atwell and tenancies by sufferance. If adopted the bill would essentially allowing

landlord to adjust rent without negotiation by simply giving a notice to a tenant. See Senate Bill 905 regarding flags of rebellion and the lease bill introduced by Sen. Lucido, Senate Bill 863. Copies of both are attached.

A number of bills address the current state of emergency with respect to evictions and property tax related matters amongst other things

- a. HB 5705 Property tax; reduced property taxes for certain properties due to travel restrictions during declared state of emergency.
<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2020-HIB-5705.pdf>
- b. HB 5720 prohibition against entry to premises for purposes of removing or excluding a tenant or mobile home owner from their own during a declared emergency.
[http://www.legislature.mi.gov/\(S\(xihzsbzpczk5hlexmdyluywb\)\)/mileg.aspx?page=getObject&objectname=2020-HB-5720](http://www.legislature.mi.gov/(S(xihzsbzpczk5hlexmdyluywb))/mileg.aspx?page=getObject&objectname=2020-HB-5720)
- c. HB 5738. Deadline extension for property tax payments during declared emergency.
[http://www.legislature.mi.gov/\(S\(xihzsbzpczk5hlexmdyluywb\)\)/mileg.aspx?page=getObject&objectname=2020-HB-5738](http://www.legislature.mi.gov/(S(xihzsbzpczk5hlexmdyluywb))/mileg.aspx?page=getObject&objectname=2020-HB-5738)
- d. HB 5750. Moratorium on tax foreclosure during COvid 19 pandemic.
[http://www.legislature.mi.gov/\(S\(xihzsbzpczk5hlexmdyluywb\)\)/mileg.aspx?page=getObject&objectname=2020-HB-5738](http://www.legislature.mi.gov/(S(xihzsbzpczk5hlexmdyluywb))/mileg.aspx?page=getObject&objectname=2020-HB-5738)
- e. HB 5752. Moratorium on electric and gas utility shutoffs for individuals who comply with public health directive during a declared emergency.
<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2020-HIB-5761.pdf>
- f. HB 5761. Property tax deadlines extended during declared state of emergency
<https://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2020-HIB-5663.pdf>
- g. HB 5766. Modification of property tax appeal deadlines during 2020.
<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/House/pdf/2020-HIB-5761.pdf>
- h. SB 863. Sen. Pete Lucido introduced a bill for adjustments of rent under certain tenancy agreements and requiring notice related to tenancy at will and tendencies by sufferance. <http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2020-SIB-0863.pdf>
- i. Senate Bill 865. Proposes procedures and regulations related to cellular phones in courtrooms. <http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2020-SIB-0865.pdf>

- j. Senate Bill 874. Prohibitions against entry to premises for the purposes of eviction during a declared emergency.
<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2020-SIB-0874.pdf>
 - k. Senate Bill 891. Modifies date when interest begins to accrue on delinquent taxes to actual date of forfeiture to County Treasurer.
<http://www.legislature.mi.gov/documents/2019-2020/billintroduced/Senate/pdf/2020-SIB-0891.pdf>
 - l. Senate Bill 901. See also House Bill 5750 above. Moratorium on tax foreclosures during COvid 19 emergency.
[http://www.legislature.mi.gov/\(S\(xihzsbzpczkz5hlexmdyluywb\)\)/mileg.aspx?page=getObject&objectname=2020-SB-0901](http://www.legislature.mi.gov/(S(xihzsbzpczkz5hlexmdyluywb))/mileg.aspx?page=getObject&objectname=2020-SB-0901)
 - m. Senate Bill 905. Prohibits display of Confederate battle flag and the grounds of the Capitol building.
[http://www.legislature.mi.gov/\(S\(xihzsbzpczkz5hlexmdyluywb\)\)/mileg.aspx?page=getObject&objectname=2020-SB-0905](http://www.legislature.mi.gov/(S(xihzsbzpczkz5hlexmdyluywb))/mileg.aspx?page=getObject&objectname=2020-SB-0905)
6. **Pending Legislation; Positions.** Bills on which we recently took action remain in committee and have not advanced.
- a. HB 4123 and 4699. These bills essentially authorize a lien against all real estate throughout the state owned by an owner of even a single blighted property subject to blight citations.
 - b. HB 4676 and HB 4677. The bills essentially attempt to bar certain noisome restrictions related to race, religion and sexual orientation, etc. which is a laudable goal.
 - c. HB 4509 about members of single member LLC's representing an LCC in eviction action has moved to Judiciary and Public Safety Committee in the House.
7. **Prior Bills.** There was no activity on the following bills of interest:
- a. **Emotional Support Animals.** SB609 and SB 610, about emotional support animals and residential landlord tenant issues seem to remain viable. They are however still in the Committee on Local Government.
 - b. **Tree Liability; HB 4915.** This bill seems to have lost momentum. We continue to monitor it. Comments received can be summarized as the proposal is an unnecessary dramatic change from settled law and is fraught with unintended consequences.

- c. **Soil Erosion Bill.** SB 0714 Dealing with temporary erosion control structures being authorized without permit during high water levels seems to have legs and has moved to the Committee of Natural Resources and Outdoor Recreation.
- d. **Assignment of Rents Statutes.** Likewise the bills related to a new assignment of rents statute, HB 5086 and HB 5092 remain in the Judiciary Committee.