

# MEMORANDUM

TO: Real Property Law Section Council

FROM: Mike Luberto

DATE: September 9, 2022

SUBJECT: Legislative Committee Report

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1. **Monthly Call.** The ad hoc Legislative Committee met via conference call Thursday, September 1, 2022, to discuss recent legislation.
2. **Current status.** In a call on Tuesday, August 30, 2022, Tabitha Zimney from Karoub & Associates advised that currently the Michigan Legislature is scheduled to be in session 2 days in September 2022, no days in October 2022, and depending on election results, there may not be a lame-duck session after that. Tabitha said that legislative committees may be meeting during those times, so there may be some advancement of introduced bills, but unlikely that any new legislation will be passed before October 31, 2022.
3. **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). This is now law.
- SB 1020 (requires contractors to pay subcontractors and suppliers in a timely manner).  
<http://legislature.mi.gov/doc.aspx?2022-SB-1020>

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.

The Legislative Committee recommends that Council adopt a resolution opposing this legislation because it (a) eliminates the rights of private parties to make contracts, (b) is poorly drafted, with conflicting provisions and ill-defined terms, (c) the proposed elimination of retention is over-reaching and contrary to standard industry practice, and (d) unnecessarily helps contractors and subcontractors who have a remedy for non-payment under the Construction Lien Act.

- SB 1082 (amends process for appealing certain assessment-related disputes as to certain property; specifically to amend 1893 PA 206 by amending section 34 (MCL 211.34), as amended by 1986 PA 105, and by adding sections 34f and 34g)  
(<http://legislature.mi.gov/doc.aspx?2022-SB-1082>) . A companion bill, SB 1075 strips authority from the Tax Tribunal and gives that authority to the county  
(<http://legislature.mi.gov/doc.aspx?2022-SB-1075>).

The Legislative Committee recommends that Council adopt a resolution opposing this legislation because it (a) dramatically shifts the playing field in assessment disputes against property owners in favor of taxing authorities, (b) creates a poor procedure for resolving assessment disputes, and (c) is poorly drafted.

- HB 6343 – Proposes some cleanup and exempts from uncapping of taxable value upon transfer to sons-in-law and daughters-in-law. <http://legislature.mi.gov/doc.aspx?2022-HB-6343>

The Legislative Committee recommends that Council adopt a resolution supporting this legislation because it promotes the efficient practice of real estate law.

- MRTA

The Legislative Service Bureau sent a revised version of the Section's proposed bill. Nick Scavone, who led the Section's efforts on this project, provided the attached markup, showing the differences between the bill the Section last presented, and the version sent to us by LSB. In our most recent call, Tabitha said that she wants to get our proposed bill introduced, even if it is not "perfect," and tweak it during the process.

In late-breaking news, Representative Hauck introduced HB 6370 ([https://www.legislature.mi.gov/\(S\(bre2b2eyjzcydz5rix4xz00\)\)/mileg.aspx?page=getobject&objectname=2022-HB-6370&query=on](https://www.legislature.mi.gov/(S(bre2b2eyjzcydz5rix4xz00))/mileg.aspx?page=getobject&objectname=2022-HB-6370&query=on)) and plans to take it up in committee on September 20<sup>th</sup>.

#### 4. 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.

5. **Potential Future Action.**

- **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].
- **Uniform Power of Attorney Act.** Senator Wozniak agreed to take the attached proposed legislation to the Legislative Service Bureau to draft a bill. A call was held on September 7 to discuss the proposed legislation.

6. **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.

7. **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 the report submitted at the July 2022 Council meeting for further information.