

MEMORANDUM

TO: Real Property Law Section Council

FROM: Roxana Zaha / David Pierson

DATE: February 9, 2026

SUBJECT: Legislative Committee Report

1. **Monthly Calls.** The Legislative Committee met on February 3, 2026. Roxana Zaha also had a separate call on February 6, 2026, with RPLS lobbyist Tabitha Zimny.

2. **Recent Developments.**

(A) **HB 5152 and HB 5153; Mortgage Foreclosure Protection Bills** – Tabitha sent along our comments to the sponsors; no further movement; these have not gained support and are not likely to advance.

(B) **Low Income Water Affordability Bills (SB 248 – 256)** – no updates; Tabitha believes it likely that these bills will become a lame duck issue.

(C) **HB 4846 of 2025; Squatters Rights Bills** – no further movement; Tabitha is participating in a housing work group with realtors, home builders, and other stakeholders. She'll be discussing emerging issues and priorities with them, which should give her a clearer picture of what's developing and what may be coming down the pipeline this year.

(D) **HB 5367 and HB 5367 (Surtax on Large Scale Single-Family Investments)** – were referred to the Committee on Government Operations and are not expected to advance.

(E) **Zoning Bills** – they were scheduled to be introduced this week or next week. Their main purpose is – state preemption over local zoning that hinders the creation of more housing. Sen. Santana will work on a Senate version; right now, the House versions are expected to come down the pipeline.

(E) **HB 5289 – Remote In Person Notarization.** (Last Action 11/13/25; introduced and referred to Committee; Bill electronically reproduced 11/13/25). **Update:** Had stalled but it is moving again. The bill was introduced in the House by Rep. Brian Posthumus, and Sen. Sylvia Santana is expected to take the lead in the Senate. **We should provide any proposed revisions or comments we may have.**

We had RIN during COVID, prior statute on RIN expired July 1, 2021. HB 5289 would bring it back. The draft bill provides for two-step identity authentication – before the video

conference and again during the video conference. The individual seeking the notary's services, if not known to the notary, must present "satisfactory evidence of identity to the notary before the video conference that allows the notary to confirm the identity through credential analysis and identity proofing (emphasis added), and presents satisfactory evidence of identity to the notary again during the video conference that allows the notary to reconfirm the identity."

(F) **Kessler Fix Bills (HB 5045 and 5046)**. The object of the bills is to restore the generally accepted rule that if a sheriff's deed is recorded after the 20 days specified by statute, the redemption period does not begin to run until the date of recording. In addition, the bills add that interest also does not begin to run until then. That was changed by an unexpected Court of Appeals opinion that has the unfortunate effect of allowing bad actors to prevent homeowners from redeeming their property from foreclosure.

We made a few additional revisions to the initial bills that we supported last fall, to resolve two newly identified conflicts. First, there is ambiguous language that can be read to say that even if a sheriff's deed is timely recorded, the redemption period and interest do not begin until the date of recording. That would conflict with the accepted rule and was not intended. Second, the date interest begins to run is stated differently in two places: In one it starts the day of recording; in the other, the day after.

The bills, as amended, are now scheduled for a hearing in Committee on Thursday, February 19, 2026; RPLS will have to testify.

MLTA revisions: Meanwhile, MLTA is working with its lobbyist to address potential new revisions to the bills to address third-party bidder issues. David Martyn reached out and explained recent situations where third-party bidders at foreclosure sales either fail to provide a payoff amount in time for the property owner to redeem before the redemption period expires or refuse to accept a payoff calculated by the register of deeds. This effectively prevents the owner from redeeming the property. It has also created problems in the title industry—title companies have insured title based on a payoff figure that they ultimately cannot get the third-party bidder to accept, exposing the title company to potential claims.

Given that it is expected that the legislature will pass an even fewer number of bills in 2026, MLTA would like to address this third-party bidder issue now, as part of the broader *Kessler* fix. MLTA will work with its lobbyist to propose some language.

Per Tabitha, from a timing perspective, this will be fine. They still need to get the bill through the House, which involves a two-committee process. The stakeholders should plan to speak up during committee hearings. Ideally, an amendment could be secured before the 19th, though it could also be added later—either on the House floor or in the Senate. Ultimately, this is MLTA's fight to lead; they should be getting updated language soon. There will also be an opportunity to add language once the bill reaches the Senate. Overall, there is still plenty of time in the process.

3. **SB 0738 (Introduced 12/16) - Michigan Fair Chance Access to Housing Act; House counterpart is HB 5355 (Introduced 12/11/2025)** Last Action: 12/16/25 (referred to Committee). **SB 0738** and **HB 5355** create the *Michigan Fair Chance Access to Housing Act*, legislation aimed at preventing housing discrimination based on criminal history and regulating how landlords may use criminal background information during the tenant-screening process.
- **SB 0738 proposes the following (the HB 5355 is functionally the same; same policy):**
 - Completely bans criminal-history inquiries during the *initial rental application stage*. Requires landlords to first review non-criminal criteria (credit, income, rental history, pet restriction qualification) and issue a *conditional offer* before seeking or considering criminal background information. The bill would also make it illegal to, before issuing a conditional offer, to require an applicant to complete a rental application that includes an inquiry regarding the applicant’s criminal record or make an oral or written inquiry for the applicant’s criminal record.
 - *After a conditional offer*, landlords “SHALL NOT .. evaluate a rental application **based solely** on an applicant’s criminal record.” Landlords may consider **ONLY** certain serious offenses (e.g., arson, human trafficking, sexual offenses) or *any other felony conviction that was adjudicated within the past 3 years*.
 - If withdrawing a conditional offer, landlords must:
 - Conduct an *individualized assessment* considering the applicant’s rehabilitation, time since offense, age at offense, and nature/severity of offense.
 - Provide a *written notice detailing the reason* for withdrawal.
 - *Allow the applicant to submit mitigating evidence* before final denial.
 - The **Attorney General** is empowered to: enforce the act, investigate complaints, create required informational forms , establish civil sanctions for violations.
 - **Concerns**: L. Lewis reviewed and noted a number of concerns: This bill is more complicated than past housing bills on this subject, has more confusing definitions, lacks exceptions for people who are renting a room in their home or renting an attached duplex, has a broad scope of application as to what is a rental unit, has no definition of residential tenant, and the only crimes that can be considered by a landlord are those listed in Section 9(4)(a-c). So, as an example, if someone was convicted of murder 15 years ago and was just released on parole, and applied to live in a room I was renting in my home, I would be prohibited from considering that. That part is policy, but the language is confusing, the definitions are not well done, *and it is not coordinated at all with other statutes as far as I can tell, such as eviction law and HUD rules*. And because the “rental unit” includes grounds or other facilities or area promised for the use of a residential tenant” (residential tenant is not defined) the bill likely applies to even outdoor venues, campgrounds, and potentially even squatters. Also, no term of lease is referenced, so this would likely apply to short-term rentals, including Airbnb. It also does not appear to address what happens if a tenant is convicted of a crime after signing a lease.

- **Additional considerations and concerns:**
- **The list of ‘allowable crimes’ to be considered by a landlord is extremely narrow:**
 - Murder, torture, manslaughter, assault, armed robbery, and other violent crimes not part of the list of things that could be considered by a landlord.
- **Increased liability exposure for landlords if a tenant harms neighbors, employees, or other tenants.**
- **Potential risk to vulnerable populations (e.g., kids, seniors, domestic violence survivors, students).** This would apply to day camps, and kids’ camps, etc.
- **Conflicts with federal fair housing obligations related to maintaining safe housing environments**
 - The federal Fair Housing Act (FHA) (42 U.S.C. 3601 et seq.) requires housing providers to ensure nondiscrimination, equal access, and reasonable accommodations. The Michigan bills—by restricting what criminal history landlords may consider—may conflict with these obligations in several ways:
 - The FHA prohibits:
 - Harassment
 - Failure to prevent known threats
 - Practices that create a hostile or unsafe environment for protected classes
 - If the bills force a landlord to accept a tenant with a **known violent background** (e.g., murder, armed robbery, domestic violence) but prohibit landlords from considering that history, landlords may be unable to:
 - Protect other tenants (including protected classes, such as women or disabled tenants).
 - Enforce policies necessary to prevent violence or harassment.
 - Reduce foreseeable harm.
 - **Risk:** Landlords could be sued by other tenants for **failure to take reasonable steps to prevent known safety risks**, an obligation recognized under federal caselaw
- **The “Individualized Assessment” Standard Is Burdensome**
 - Opens up property owners to fear of lawsuits if the applicants disagree with the assessment; or investigations/penalties from the Attorney General.
 - Instead of helping access to housing, this may have the counter effect of deterring landlords to open up their properties to lease for fear of litigation, increased operating costs, so many administrative steps (issue the offer first, wait to run or consider background check, issue detailed written notices if withdrawing conditional offer, give applicant time to respond) → administrative delays, lengthens the screening process and delay filling vacancies.
- **Potential Conflict with Insurance Requirements**

- Some landlord insurance policies require screening for violent criminal convictions, and/or denial of applicants with certain prior offenses due to liability exposure.
- Since murder and violent felonies cannot be considered under the bills, landlords may inadvertently violate insurer conditions—risking loss of coverage or premium increases.

Update from Tabitha: The current versions of the bills were drafted by the Vera Institute, an advocacy group focused on ending mass incarceration. These versions are not expected to advance, as landlord groups strongly oppose them and the House is likely to block them in their current form. A significantly watered-down substitute is anticipated next week. We will review the substitute but even the substitute is unlikely to gain traction. I shared our concerns and explained that the Legislative Committee intends to recommend that Council oppose the bills. Tabitha agreed and suggested that we submit written comments outlining our concerns so she can forward them to the sponsors. She also noted that eviction-expungement legislation has a stronger likelihood of advancing this session. Although those bills have not yet been introduced, she expects they may be reworked and reintroduced with a more viable path forward.

The Legislation Committee recommends **that Council OPPOSE SB 0738 and HB 5355**, as these bills would undermine the fair and orderly administration of real property law by increasing landlords’ potential liability for failing to protect tenants from purported known dangers and by creating conflicts with landlords’ obligations under federal fair housing laws.

Other bills of potential interest that were introduced or saw action between 1/1/26 – 2/9/2026 (Summaries generated with help of AI)

Introduced:

<p>SB 0771 of 2026</p>	<p>Environmental protection: sewage; onsite wastewater treatment systems; regulate, and provide for assessments and evaluations. Amends secs. 12751, 12752, 12757 & 12771 of 1978 PA 368 (MCL 333.12751 et seq.) & adds pt. 128.</p> <ul style="list-style-type: none"> • Bill aims to establish MI’s first comprehensive oversight framework for septic systems (onsite wastewater treatment). Bill addresses concerns over aging, failing septic systems causing water contamination and aims to modernize regulations. Bill with amendments is 52 pages.
<p>SB 0773 of 2026</p>	<p>Civil procedure: other; racing facilities and racetracks; provide immunity from nuisance claims. Amends 1961 PA 236 (MCL 600.101 - 600.9947) by adding sec. 2940a.</p> <ul style="list-style-type: none"> • SB 0773 aims to protect racetrack operators from nuisance lawsuits brought by neighbors who moved into the area <i>after</i> the racetrack was established. This mirrors “right-to-farm” style protections—essentially a “right-to-race” immunity framework.

HB 5454 of 2026	<p>Environmental protection: hazardous products; use of perchloroethylene in dry cleaning solvents; prohibit. Amends 1994 PA 451 (MCL 324.101 - 324.90106) by adding subpt. 3 to pt. 147.</p> <ul style="list-style-type: none"> • HB 5454 would prohibit the manufacture, sale, and use of dry-cleaning solvents containing perchloroethylene, phasing in the bans between 2031 and 2032. It also creates a Perchloroethylene Fund to support grants and cost-share programs that help dry-cleaning facilities transition to safer alternative products and processes.
HB 5461 of 2026	<p>Economic development: plant rehabilitation; definition of speculative building; modify. Amends sec. 3 of 1974 PA 198 (MCL 207.553).</p> <ul style="list-style-type: none"> • HB 5461 amends the Plant Rehabilitation and Industrial Development Act to update the definition of “speculative building” within plant rehabilitation districts, refining what qualifies for industrial facilities tax treatment
HB 5462 of 2026	<p>Economic development: plant rehabilitation; definition of qualified commercial activity; modify. Amends sec. 2 of 1974 PA 198 (MCL 207.552).</p> <ul style="list-style-type: none"> • HB 5462 revises the same Act by modifying the definition of “qualified commercial activity” and other related terms, broadening the types of facilities and activities that may qualify for plant rehabilitation incentives.
HB 5463 of 2026	<p>Economic development: plant rehabilitation; requirements related to an industrial facilities exemption certificate; modify. Amends sec. 7 of 1974 PA 198 (MCL 207.557). TIE BAR WITH: HB 5464'26</p> <ul style="list-style-type: none"> • HB 5463 updates requirements for issuing industrial facilities exemption certificates, including new procedures for state notification, concurrence requirements, and improved administrative processes.
HB 5464 of 2026	<p>Economic development: plant rehabilitation; requirements related to the revocation of an industrial facilities exemption certificate; modify. Amends sec. 15 of 1974 PA 198 (MCL 207.565). TIE BAR WITH: HB 5463'26</p> <ul style="list-style-type: none"> • HB 5464 modifies the process and grounds for revoking industrial facilities exemption certificates, clarifying when and how certificates may be rescinded due to delays, noncompliance, or failure to meet statutory development requirements; it is tie-barred to HB 5463
HB 5465 of 2026	<p>Crimes: trespassing; prohibition against entering a key facility; expand. Amends sec. 552c of 1931 PA 328 (MCL 750.552c).</p> <ul style="list-style-type: none"> • HB 5465 expands Michigan’s criminal trespass law by broadening the definition of a “key facility” to include railroad tunnels, data centers, and battery storage facilities, and clarifies that posted railroad yards are protected even without full enclosure. The bill maintains existing

	penalties for unlawful entry and continues to exempt lawful assembly and peaceful petitioning.
HB 5485 of 2026	<p>Natural resources: inland lakes; dam safety regulations; provide for. Amends secs. 31502, 31503, 31504, 31505, 31506, 31507, 31508, 31509, 31510, 31511, 31513, 31515, 31516, 31517, 31518, 31520, 31521 & 31523 of 1994 PA 451 (MCL 324.31502 et seq.) & adds secs. 31506a, 31509a, 31509b, 31517a, 31518a, 31518b, 31518c, 31518d, 31528a & 31528b.</p> <ul style="list-style-type: none"> • Bill aims to overhaul MI’s dam safety regulations under the NREPA. The bill strengthens oversight by creating stricter flood capacity standards for high-hazard dams, requiring comprehensive safety and asset management plans for owners, and revising permit procedures for dam repairs. Requires registration of dams; such registration will require information about assessment of conditions, critical deficiencies, life cycle cost analysis, assessment of probability and consequences of dam failure, etc.
HB 5494 of 2026	<p>Property: conveyance of state property; sale of state property to federal immigration and customs enforcement; prohibit. Amends 1984 PA 431 (MCL 18.1101 - 18.1594) by adding sec. 256.</p> <ul style="list-style-type: none"> • Bill aims to prohibit the State from selling or transferring State-owned property to U.S. Immigration and Customs Enforcement (ICE) or its affiliates. It restricts the use of former state property as detention centers, driven by concerns over 2025 being a record-deadly year in ICE detention.
HB 5501 of 2026	Natural resources: wetlands; replacement or relocation of wetlands within a development project; allow. Amends sec. 30311d of 1994 PA 451 (MCL 324.30311d).
HB 5502 of 2026	Natural resources: wetlands; regulation of wetlands; modify. Amend sec. 30305 of 1994 PA 451 (MCL 324.30305).
HB 5507 of 2026	Water supply: quality and standards; effective date of the clean drinking water access act; revise. Amends secs. 5 & 7 of 2023 PA 154 (MCL 380.1905 & 380.1907).

Passed By Chamber:

HB 4352 of 2025	<p>Water supply: systems; authority as municipal authority; modify. Amends title & secs. 1, 4, 4a, 4b, 4c & 4d of 1955 PA 233 (MCL 124.281 et seq.).</p> <ul style="list-style-type: none"> • HB 4352 authorizes large municipal water or sewage authorities (those with a treatment capacity of at least 1 billion gallons per week) to adopt and enforce ordinances governing system operations and to establish their own law enforcement agency with authority to enforce those regulations.
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HB 4353 of 2025	<p>Water supply: systems; authority as municipal authority; modify. Amends sec. 1 of 2006 PA 563 (MCL 15.391). TIE BAR WITH: HB 4352'25</p> <ul style="list-style-type: none"> • HB 4353 updates the Michigan law governing use and disclosure of law-enforcement-officer statements by adding “qualified authority” officers (created under HB 4352) to the list of recognized law enforcement agencies and officers, ensuring they fall under the same statutory framework
HB 4354 of 2025	<p>Water supply: systems; authority as municipal authority; modify. Amends sec. 2 of 1965 PA 203 (MCL 28.602). TIE BAR WITH: HB 4352'25</p> <ul style="list-style-type: none"> • HB 4354 amends the Michigan Commission on Law Enforcement Standards Act to include officers employed by a “qualified authority” created under HB 4352 and modernizes related definitions, making such officers subject to MCOLES certification and oversight
HB 4355 of 2025	<p>Water supply: systems; authority as municipal authority; modify. Amends sec. 2a, ch. IV of 1927 PA 175 (MCL 764.2a). TIE BAR WITH: HB 4352'25</p> <ul style="list-style-type: none"> • HB 4355 amends the Code of Criminal Procedure to authorize peace officers employed by a “qualified authority” to exercise police powers outside the authority’s boundaries under specified circumstances, aligning their jurisdictional authority with other Michigan law enforcement agencies
HB 4361 of 2025	<p>Public utilities: other; guidelines for trimming trees and branches around power lines; modify. Amends sec. 10p of 1939 PA 3 (MCL 460.10p).</p> <ul style="list-style-type: none"> • Bill aims to significantly alter utility vegetation management. It allows electric utilities to trim trees from the ground to the sky, and maintain a 15-foot clearance from lines, or more if deemed necessary for reliability. It allows utilities to bypass certain existing regulations, rules, or commission orders for the purpose of trimming or removing trees.
HB 4486 of 2025	<p>Public utilities: natural gas utilities; local units of government imposing a ban on the use of natural gas or installation of natural gas infrastructure; prohibit. Creates new act.</p> <ul style="list-style-type: none"> • HB 4486 prohibits local governments from banning the use of natural gas or the installation of natural gas infrastructure, creating a statewide preemption that nullifies any local restrictions on natural gas appliances or service
HB 4678 of 2025	<p>Agriculture: weights and measures; certain definitions; provide for. Amends 1964 PA 283 (MCL 290.601 - 290.635) by adding sec. 28g. TIE BAR WITH: HB 4679'25</p>

	<ul style="list-style-type: none"> • HB 4678 amends the Weights and Measures Act to authorize equipment rental companies to sell motor fuel to renters using either a clearly stated flat fee or per-gallon charge, with fuel measured by a “qualified dispenser” that meets federal safety standards.
HB 4679 of 2025	<p>Agriculture: weights and measures; certain definitions; provide for. Amends secs. 10 & 28c of 1964 PA 283 (MCL 290.610 & 290.628c). TIE BAR WITH: HB 4678'25.</p> <ul style="list-style-type: none"> • HB 4679 complements HB 4678 by updating definitions and enforcement provisions in the Weights and Measures Act related to fuel measurement and qualified dispensers, ensuring consistent regulation of fuel sales by equipment rental companies
HB 4774 of 2025	<p>State management: purchasing; architectural services, engineering services, and land surveying services for state contracts; modify policies and procedures for the selection of. Amends sec. 237b of 1984 PA 431 (MCL 18.1237b).</p> <ul style="list-style-type: none"> • HB 4774 revises state procurement rules to modify how the state selects architects, engineers, and land surveyors for public contracts, updating procedures for qualification-based selection to improve fairness and consistency
HB 4914 of 2025	<p>Occupations: architects, professional engineers, and surveyors; requirements for firms in the practice of architecture, professional engineering, or professional surveying; modify. Amends sec. 2010 of 1980 PA 299 (MCL 339.2010).</p> <ul style="list-style-type: none"> • HB 4914 updates licensing requirements for firms practicing architecture, engineering, or surveying by removing the mandate that two-thirds of firm principals be licensed, allowing firms with nonlicensed principals to operate if approved by the state and subject to revised reporting and supervision requirements.

OLD BUSINESS:

4. Kessler Fix Bills

- **HB 5045 of 2025** Housing: other; redemption of premises; modify. Amends secs. 48g & 48i of 1966 PA 346 (MCL 125.1448g & 125.1448i). Introduced 9/24; Last Action: 9/24 referred to Committee on Regulatory Reform

- **HB 5046 of 2025** Civil procedure: foreclosure; recording of deed; modify. Amends secs. 3232 & 3240 of 1961 PA 236 (MCL 600.3232 & 600.3240). Introduced 9/24; Last Action 9/24 referred to Committee on Regulatory Reform

At the 10/22/25 meeting, Council voted to support these bills. We submitted our position in support of these bills (adopted 10/22/25): The Section supports HB 5045 and HB 5046 to correct the issues created by the decision of the Court of Appeals in *Kessler v Longview Agricultural Asset Management, LLC*, 345 Mich App 196 (2023) which overturned the prevailing understanding of the applicable statutes and concluded that the purchaser at a mortgage foreclosure sale can wait until the day before the redemption period expires to record the sheriff's deed and the redemption period will expire the following day. This change in practice should be fixed by the legislature because it impedes the efficient administration of real estate law, denies property owners notice to allow them to exercise their right to redeem and deprives them of what were understood to be settled rights under the prevailing application of the law.

Roxana, David and Tabitha have met multiple legislators over the last month to advance these bills. No opposition so far.

David/Mike/Roxana made some a few further amendments to the Bills that were needed to resolve two conflicts. First, there is ambiguous language that can be read to say that even if a sheriff's deed is timely recorded, the redemption period and interest do not begin until the date of recording. That would conflict with the accepted rule and was not intended. Second, the date interest begins to run is stated differently in two places: In one it starts the day of recording; in the other, the day after. Tabitha is

5. **HB 4846 of 2025 - Alternate procedure to evict squatters (Amends sec. 5714 of 1961 PA 236 (MCL 600.5714) & adds sec. 5712.)** This bill is not just policy; it concerns us because it concerns the administration of real property law. As David notes in detail in his report (excerpt below), HB 4846, the so-called "squatter eviction bill" reintroduced this session, allows anyone who claims to own property to present an affidavit to a sheriff who then assists in evicting occupants of the property. The bill presents several difficulties falling into two basic categories:

- a) **First**, it supplants a long history in Michigan of requiring a judicial determination of the right to possession of property. In place of summary proceedings in the district court, it allows a property owner to enlist the aid of a sheriff to evict someone possessing property, based on the word of the property owner (or its agent) alone, with no judicial oversight or opportunity for the person in possession to defend or know the contents of the owner's claims.
- b) **Second**, it introduces state action, in the person of the sheriff, by having the sheriff "verify" and then enforce a request for self-help evictions. The sheriff takes the place of the court in both deciding and enforcing those evictions. Apart from having sheriffs take on judicial functions, the bill may well make the sheriff liable for any violation of due process and damages for evicting a person with a right to possession by force or threat of force. It would be interesting to know how the Michigan Sherriff's Association views this bill.

UPDATE: On recommendation from the Legislative Committee, on 10/22/25, RPLS Council voted to oppose HB 4846 which would overturn Michigan's longstanding policy in favor of the determination of interests in real property by judicial process. Per Tabitha, the Sheriff's association is "ok" with the squatter bill. She believes that the Realtors are fine with it as well. **Tabitha, Roxana and Leslee had a meeting with Senator Steve Frisbie on 1/7/26 to go through our concerns.**