

MEMORANDUM

TO: Real Property Law Section Council

FROM: Leslee M. Lewis/David Pierson/Roxana Zaha

DATE: August 8, 2025

SUBJECT: Legislative Committee Report

1. **Monthly Calls.** The Legislative Committee met on June 3 and July 8, 2025. David Pierson and Leslee Lewis also participated in calls on June 3 and July 1, 2025 with RPLS lobbyist Tabitha Zimny.
2. **Recent Developments.** Karoub is hopeful that the Marketable Record Title Act bill will be addressed in August or early September. Karoub is bringing up the Kessler bill to Sen. Santana; Rep Lightner and Rep Amos are the likely House cosponsors. Tabitha Zimny reported that she also expects the following bills to go forward: SB 22 on EFT return of security deposits; SB 372-373 on tenant screening (a universal rental application alternative is coming on this which solves the application fee issue); SB 213-214 on economic development; HB 4080 on special assessment deferment; SB 251-254 on water affordability; and HB 4081 or SB 23 on land divisions; HB 4410 and 4411 on abandoned property might move forward. She predicted that SB 134 on consumer protection is not moving, SB 374 on expungement of evictions (reintroduction) is not moving, SB 375 on fees charged to tenants is not likely to move, foreign ownership of land bills (HB 4233-34) won't pass the Senate. Tabitha noted that RPLS was able to get the requested correction to SB 160 on premarital agreements.
3. **Recommendation to Support Marketable Record Title Act (MRTA).** Thank you to our RPLS special committee who drafted the HB 4524 of 2025, an amendment to the Marketable Record Title Act, and negotiated for more than a year with all those who had an interest in it, to come to a mutually agreed draft. The MRTA amendment was sponsored by Douglas Wozniak and Kelly Breen, introduced on June 11, 2025, and is on its second reading in the House, having been reported out of the Committee on Judiciary. Tabitha Zimny is pushing to move the MRTA bill forward, hoping to be able to get the bill passed before the current MRTA amendment's expiry in September, 2025. **The Legislative Committee recommends that the Council move to support this bill, which reflects years of work by a number of our dedicated members.** The bill can be found here.

<https://www.legislature.mi.gov/Bills/Bill?ObjectName=2025-HB-4524&QueryID=175558826>

History: The Legislature adopted the extension of the grace period through September 29, 2025, with immediate effect, and the Governor signed it on March 28, 2024. At the April Council meeting, Council approved a bill to implement the "comprehensive fix." Members of the Legislative Committee and former RPLS Chair Cathy LaMont later discussed the bill with representatives of the Michigan Land Title Association (MLTA). A bill was submitted to the Legislative Service Bureau to prepare for introduction, and the drain commissioners association requested changes to the bill to protect certain special assessments for drain improvements. The Committee discussed this with Tabitha and worked through this issue to

get the bill introduced. In the September Council meeting, the Council overwhelmingly disfavored repeal of the Act. David Pierson thereafter reviewed comments from the drain commissioners. Drainage districts have been given the same categorical exemption as other government agencies which we believe should suffice. Our understanding is that other language in the MRTA raised concerns for them as to the treatment of pre-1956 easements, before recording with the register of deeds was required. Their suggested language, ‘regardless of whether the preserved or excepted interests are recorded with the register of deeds,’ was much broader than just those, and opened up a Pandora’s box of unknown, unrecorded easements or other interests, well beyond the issue they raised. With the one exception of the pre-1956 interests of drainage districts, Michigan requires real property interests to be recorded. The unintended consequences of their broader language could be significant. Compromise language was drafted by David and reviewed by Leslee and the committee and shared with the drain commissioners’ lobby. It was accepted. Now ICSC has raised concerns with the draft bill. Mike Luberto and David Pierson spoke with ICSC on January 10 in follow up to a conversation with ICSC and the lobbyists for ICSC and RPLS in November 2024. Mike Luberto will report on that meeting during the council meeting. In November, ICSC’s current leader indicated she has concerns with the effectiveness of the MRTA, finds the drafting jumbled, and wants to review again to produce something she feels is more polished. (Note that input from multiple governmental agencies and utilities resulted in this language). Rep. Fitzgerald was unwilling introduce the bill until ICSC’s concerns are addressed. Tabitha has suggested that new co-sponsors may be needed given the change in make-up of the legislature. ICSC is believed to have signed off on the bill with minor changes made by David Pierson and approved by Mike Luberto. Tabitha believes she has sponsors for the bill and is trying to fast track it to be sure it can be passed before the September 29, 2025 expiry date of the current extension. Tabitha reported in April 2025 that the RPLS MRTA bill was sent to a drafter. Representative Wozniak is our sponsor on the House side. A Senate sponsor has not been secured. Tabitha is speaking to leadership about the issue of timing, because the current MRTA extension expires in September, 2025. Tabitha, Mike Luberto, David Pierson and Leslee Lewis spoke to Matthew Heron on April 1 to review comments from the LAC on the current draft of the MRTA bill. Some corrective changes are being made in response to those comments.

4. **Recommendation to Oppose SB 374.** SB 374 is a reintroduction of SB 801 of 2024, which the Council opposed. The Legislative Committee recommends this bill be opposed unless changes are made. Our reasoning is the same as SB 801 of 2024, as follows. This bill presents clear issues with the administration of real estate law. A landlord who has previously evicted a tenant would be aware of the previous eviction and so would be prohibited from basing any adverse action on the previous eviction; therefore, once a landlord evicts a tenant they would be forced to violate the bill (and face fines, attorney fees and equitable relief) or would have to perpetually rent again to the tenant they just evicted. Below is a summary of SB 374.

SB 374 bill would amend the Revised Judicature Act of 1961 by adding section 5755 to provide for the sealing and expungement of court records related to eviction summary proceedings. Section 5755 would allow Michigan courts to seal or expunge records from eviction (summary) proceedings under certain conditions to protect tenants, such as when

eviction cases stem from foreclosures, low-dollar rent claims, emergency rental assistance, or mutual agreement between parties, with records automatically expunged after three years. Landlords must not use sealed records to take adverse actions against prospective tenants, and sealed records may only be accessed for research or legal representation under strict confidentiality terms. Violations can result in civil penalties, damages, and attorney fees for affected tenants. Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

5. Legislative Developments. The following bills were introduced or saw action since our June meeting:

SB 19 -22 on Tenant Rights are moving in the Senate:

- SB 19 Housing: landlord and tenants; tenants rights to repair; provide for. Amends sec. 39 of 1846 RS 66 (MCL 554.139). TIE BAR WITH: SB 0021'25, SB 0020'25
- Last Action: PLACED ON ORDER OF THIRD READING WITH SUBSTITUTE (S-1)
- SB 20 Housing: landlord and tenants; cross-reference to the revised statutes of 1846; remove. Amends sec. 6 of 1978 PA 454 (MCL 554.636). TIE BAR WITH: SB 0021'25, SB 0019'25
- Last Action: PLACED ON ORDER OF THIRD READING
- SB 21 Housing: landlord and tenants; prohibition against tenants right to repair; disallow in truth and renting act. Amends secs. 3 & 4 of 1978 PA 454 (MCL 554.633 & 554.634). TIE BAR WITH: SB 0019'25, SB 0020'25
- Last Action: PLACED ON ORDER OF THIRD READING
- SB 22 Housing: landlord and tenants; return of security deposit by electronic transfer; allow. Amends sec. 9 of 1972 PA 348 (MCL 554.609).
- Last Action: PLACED ON ORDER OF THIRD READING

SB 46 was passed by one chamber (Water supply: systems; mobile home park water delivery systems; regulate. Amends secs. 2, 3 & 15 of 1976 PA 399 (MCL 325.1002, et seq.). Last Action: referred to Committee on Regulatory Reform

SB 160 Family law: marriage and divorce; uniform premarital and marital agreements act; create. Creates new act. Last Action: referred to Committee on Judiciary
Last Action: referred to Committee on Judiciary

SB 213 Economic development: other; strategic advisory board; create, and provide for the development of strategic plans. Amends title of 1984 PA 270 (MCL 125.2001 - 125.2094) & adds sec. 9c. TIE BAR WITH: SB 0214'25
Last Action: REFERRED TO COMMITTEE OF THE WHOLE WITH SUBSTITUTE (S-1)

SB 214 Economic development: other; strategic advisory board; create, and provide for the development of strategic plans. Amends 1984 PA 270 (MCL 125.2001 - 125.2094) by adding secs. 9a & 9b. TIE BAR WITH: SB 0213'25
Last Action: REFERRED TO COMMITTEE OF THE WHOLE WITH SUBSTITUTE (S-3)

SB 278 Housing: other; housing and community development fund; modify. Amends secs. 58, 58b & 58c of 1966 PA 346 (MCL 125.1458 et seq.).

Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

SB 279 Economic development: other; office of business permitting support; create. Amends title of 1984 PA 270 (MCL 125.2001 - 125.2094) & adds ch. 7A.

Last Action: REFERRED TO COMMITTEE ON ECONOMIC AND COMMUNITY DEVELOPMENT

SB 282 Labor: collective bargaining; tenants right to organize; provide for. Creates new act.

Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

SB 284 Communications: internet; digital age assurance act; create. Creates new act.

Last Action: REFERRED TO COMMITTEE ON FINANCE, INSURANCE, AND CONSUMER PROTECTION

SB 288 Civil rights: open meetings; grounds for going into closed session when a public body consults with its attorney; modify. Amends sec. 8 of 1976 PA 267 (MCL 15.268).

Last Action: REFERRED TO COMMITTEE ON LOCAL GOVERNMENT

SB 292 Property tax: exemptions; property tax exemption for principal residence of certain senior citizens; provide for. Amends 1893 PA 206 (MCL 211.1 - 211.155) by adding sec. 7yy.

Last Action: REFERRED TO COMMITTEE ON FINANCE, INSURANCE, AND CONSUMER PROTECTION

SB 305 Environmental protection: air pollution; civil and administrative fines; utilize to benefit communities affected by pollution. Amends 1994 PA 451 (MCL 324.101 - 324.90106) by adding sec. 5534.

Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

SB 322 Energy: alternative sources; energy waste reduction and electrification standards, renewable energy goals, and MPSC certification preempting local zoning; reverse changes made by 2023 public acts 229, 235, and 233, respectively. Amends title & heading subpt. A of pt. 2 & secs. 1, 3, 5, 7, 9, 11, 13, 22, 28, 29, 39 45, 47, 49, 71, 73, 75, 77, 78, 91, 93, 173, 177 & 191 of 2008 PA 295 (MCL 460.1001 et seq.); repeals secs. 32, 51, 53, 72, 80, 80a, 101 & 103 & pt. 8 of 2008 PA 295 (MCL 460.1032 et seq.). TIE BAR WITH: SB 0323'25

Last Action: REFERRED TO COMMITTEE ON GOVERNMENT OPERATIONS

SB 323 Land use: zoning and growth management; provision subjecting zoning authority to part 8 of clean and renewable energy and energy waste reduction act; delete. Amends sec. 205 of 2006 PA 110 (MCL 125.3205). TIE BAR WITH: SB 0322'25

Last Action: REFERRED TO COMMITTEE ON GOVERNMENT OPERATIONS

SB 324 Energy: alternative sources; shared savings mechanism; provide for. Amends 1939 PA 3 (MCL 460.1 - 460.11) by adding sec. 6x.

Last Action: REFERRED TO COMMITTEE ON GOVERNMENT OPERATIONS

SB 327 Land use: farmland and open space; use of farmland for commercial solar facilities; prohibit. Amends sec. 36104e of 1994 PA 451 (MCL 324.36104e).

Last Action: REFERRED TO COMMITTEE ON GOVERNMENT OPERATIONS

SB 369: This bill would require the Michigan Public Service Commission to develop an online transparency tool by December 31, 2026, to calculate the full lifetime cost of renewable energy systems to consumers. The tool must include detailed information on construction, operational, and end-of-life costs, such as decommissioning, component disposal, and site remediation, to enhance transparency and accountability in renewable energy pricing. Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

SB 372: This bill would amend the title and section 1 of the Landlord and Tenant Relationships Act (1972 PA 348) and adds sections 1e through 1h to allow the reuse of certain tenant screening reports by prospective tenants. New sections 1e through 1h regulate how landlords may screen prospective tenants by allowing the use of reusable screening reports, prohibiting application fees when such reports are accepted, and capping application fees at \$25 otherwise. It requires landlords to disclose in writing various rental-related details, such as available units, screening criteria, and whether reusable reports are accepted. Landlords are prohibited from considering credit scores or non-liability legal disputes in lease eligibility decisions. If an adverse action is taken, landlords must provide written notice, copies of reports used, and a fair opportunity for the applicant to respond. Includes language for an “Adverse Action Notice” which must be used in a form which substantially conforms to the example. The bill also mandates landlords to consider a tenant’s current ability to pay and to screen applications in the order they are received. Violations can result in civil penalties up to \$1,000 plus attorney fees. Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

SB 373: This bill would amend section 3 of the Truth in Renting Act (1978 PA 454) to provide for limitations on fees that landlords may charge to tenants. Would prohibit landlords from imposing fees on all available rent payment methods and requires that at least one rent payment option be offered without any additional charge to the tenant. Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

SB 374: This bill would amend the Revised Judicature Act of 1961 by adding section 5755 to provide for the sealing and expungement of court records related to eviction summary proceedings. Section 5755 would allow Michigan courts to seal or expunge records from eviction (summary) proceedings under certain conditions to protect tenants, such as when eviction cases stem from foreclosures, low-dollar rent claims, emergency rental assistance, or mutual agreement between parties, with records automatically expunged after three years. Landlords must not use sealed records to take adverse actions against prospective tenants, and sealed records may only be accessed for research or legal representation under strict confidentiality terms. Violations can result in civil penalties, damages, and attorney fees for affected tenants. Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

SB 375: This bill would amend sections 2 and 3 of the Truth in Renting Act (1978 PA 454) to provide for limitations on the fees that landlords may charge to tenants. Defines "rent" to include not only the payment for use or occupancy of a rental unit but also the cost of essential services necessary for habitability, such as utilities, plumbing, heating, trash removal, pest control, and appliances provided by the landlord. Prohibits landlords from including unreasonable or unrelated fees in rental agreements, such as charges not tied to optional nonessential services, tenant breaches, or services from third parties. It limits late fees to the lesser of \$30 or 3% of rent, bans fees for extending tenancy beyond the initial term or for notice of nonrenewal beyond one month, and disallows mandatory arbitration clauses, restrictions on lawful rent payment methods, or applying payments to fees before rent. Additionally, landlords must offer at least one rent payment method without added charges and may only pass utility costs to tenants if directly incurred by the landlord, without surcharges, but also may require tenant to pay utilities directly. Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

SB 387: This bill would amend the Revised Judicature Act of 1961 by adding section 5830 to revise the statute of limitations for groundwater contamination cases by modifying when the cause of action accrues. Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

SB 391, 392, and 385- Tie barred: SB 391 would amend Part 201 of the NREPA to strengthen environmental remediation oversight by requiring hazardous substance facility owners to report known contamination to EGLE within 90 days and submit a due care plan within 180 days, with civil and criminal penalties for noncompliance. It outlines detailed procedures for due care plans, response activity plans, and new remedial action closure reports, while also granting EGLE ongoing authority to update or reject reports and order emergency action for imminent threats. It replaces outdated "postclosure plan" terms with updated reporting standards, establishes notification duties after a release, and allows the Attorney General to recover State remediation costs. SB 391 would also repeal Sections 20114a and 20114g, removing provisions allowing some environmental response activities without EGLE's prior approval. Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

SB 392 This bill complements SB 391 by tightening approval standards for cleanup documents, requiring EGLE to approve plans only when meeting generic cleanup criteria is technically infeasible, mandating administrative rulemaking for the algorithms behind these criteria, and requiring prior EGLE approval before relying on land use restrictions to control exposure. Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

SB 385 This bill would amend the Administrative Procedures Act to exclude cleanup criteria and target detection limits created by EGLE under Part 201 from the definition of a "rule," thereby exempting them from full administrative rulemaking procedures. Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

SB 396: This bill would amend the Natural Resources and Environmental Protection Act (NREPA) to establish a regulatory framework for carbon sequestration in Michigan, including permit requirements, public notification and hearing procedures, unitization of pore space, and state assumption of long-term liability beginning 25 years after injection ends. It sets fees for

carbon storage, penalties for violations, and authorizes incentive programs and the creation of four dedicated funds to manage revenues and support community, remediation, and emergency response needs. Tie barred with SB 394 and 395 which define pore space ownership rights and exempt carbon sequestration wells from certain petroleum regulations. Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

SB 423: This bill would amend sections 78g and 78q of the General Property Tax Act (1893 PA 206) to modify the sunset provisions on certain delinquent tax payment reduction and foreclosure avoidance programs. Specifically, June 30, 2026, removed as sunset date in Section 78q(5). Last Action: REFERRED TO COMMITTEE ON FINANCE, INSURANCE, AND CONSUMER PROTECTION

The following bills are tangentially related to real property so are included in this report:

<u>SB 0435 of 2025</u>	Individual income tax: home heating credit; adjustments based on Detroit Consumer Price Index; change to United States Consumer Price Index. Amends sec. 527a of 1967 PA 281 (MCL 206.527a). Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT
<u>SB 0441 of 2025</u>	Environmental protection: sewage; municipal stormwater utilities; provide for, and authorize fee. Creates new act. Last Action: REFERRED TO COMMITTEE ON LOCAL GOVERNMENT
<u>SB 0442 of 2025</u>	Property tax: exemptions; property tax exemption for certain nonprofit housing property; modify. Amends sec. 7kk of 1893 PA 206 (MCL 211.7kk). Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

SB 479: This bill pertains to environmental approvals in “environmentally overburdened communities” and proposes to allow more denials and conditions on approvals in such communities. The bill calls for environmental justice impact assessments as part of an EGLE review process. Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

SB 484 Property tax: exemptions; exemption of certain tax delinquent property sold or otherwise conveyed by a foreclosing governmental unit; provide for. Amends sec. 7gg of 1893 PA 206 (MCL 211.7gg). TIE BAR WITH: SB 0485'25
Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

SB 485 Taxation: specific tax; application of tax reverted property specific tax to certain tax delinquent property sold or otherwise conveyed by a foreclosing governmental unit; provide for. Amends secs. 4 & 5 of 2003 PA 260 (MCL 211.1024 & 211.1025). TIE BAR WITH: SB 0484'25
Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES

HB 4192 Environmental protection: permits; groundwater discharge permit requirements; modify. Amends sec. 3122 of 1994 PA 451 (MCL 324.3122).
Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT

HB 4233 Property: land sales; prohibition for foreign entity to purchase farmland in Michigan; provide for. Amends title & secs. 35 & 36 of 1846 RS 66 (MCL 554.135 & 554.136) & adds sec. 36a.

Last Action: REFERRED TO COMMITTEE ON GOVERNMENT OPERATIONS

HB 4341 Housing: housing development authority; provision of services or grants or participation in programs for certain individuals; prohibit. Amends 1966 PA 346 (MCL 125.1401 - 125.1499c) by adding sec. 13.

Last Action: REFERRED TO COMMITTEE ON GOVERNMENT OPERATIONS

HB 4234 Property: land sales; sale or transfer of agricultural assets or land to foreign entities; prohibit. Amends title & secs. 35 & 36 of 1846 RS 66 (MCL 554.135 & 554.136) & adds secs. 36a & 36b.

Last Action: REFERRED TO COMMITTEE ON GOVERNMENT OPERATIONS

The following are Tie Barred water supply bills:

HB 4352 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.).

Last Action: recommendation concurred in

HB 4353 Water supply: systems; authority as municipal authority; modify. Amends sec. 1 of 2006 PA 563 (MCL 15.391). TIE BAR WITH: HB 4352'25

Last Action: referred to second reading

HB 4354 Water supply: systems; authority as municipal authority; modify. Amends sec. 2 of 1965 PA 203 (MCL 28.602). TIE BAR WITH: HB 4352'25

Last Action: recommendation concurred in

HB 4355 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

Last Action: referred to second reading

HB 4363 Housing: other; homeowners' energy policy act; repeal. Repeals 2024 PA 68 (MCL 559.301 - 559.317).

Last Action: referred to Committee on Government Operations

HB 4538: Restricts landlord use of algorithmic pricing device based on nonpublic competitor data in setting amount of rent under certain circumstances. Makes a violation of the act a violation of Michigan Antitrust Reform Act

Last Action: bill electronically reproduced 06/03/2025

HB 4539: This bill modifies the housing and community development fund. Amends secs. 58 & 58b of 1966 PA 346 (MCL 125.1458 & 125.1458b). TIE BAR WITH: HB 4540'25

Last Action: bill electronically reproduced 06/03/2025

HB 4540: Housing: other; housing and community development fund; modify. Amends sec. 58c of 1966 PA 346 (MCL 125.1458c). TIE BAR WITH: HB 4539'25

Last Action: bill electronically reproduced 06/03/2025

HB 4581: This bill amends the Credit Reform Act, which applies among other things to a seller under the home improvement finance act, to limit the usury rate to 10% per annum
Last Action: bill electronically reproduced 06/05/2025

HB 4582: Titled the Commercial Premises Liability Act, this bill would define the legal duties of property possessors toward invitees on commercial property. This bill is an attempt to reverse a Supreme Court ruling. It establishes that possessors must use ordinary care to protect invitees from unreasonable risks they know or should know about. However, there is no duty to warn or protect against conditions that are "open and obvious," unless such conditions have special features that make them effectively unavoidable or pose an unreasonably high risk of severe harm. The bill does not impose duties on owners who are not possessors, does not affect other legal defenses or comparative fault rules, and does not apply to conditions inside buildings or structures. Karoub believes this will not make it through the Senate. The Legislative Committee recommends this bill be discussed at the Council meeting. Our members are likely to be on both sides of this but we want the Council and members to be aware of it.
Last Action: bill electronically reproduced 06/10/2025

HB 4583: This bill would amend sections 24f and 36 of the General Property Tax Act (1893 PA 206) to limit property tax millage elections to November elections only.
Last Action: bill electronically reproduced 06/10/2025

HB 4590: This bill would amend the "'Clean and renewable energy and energy waste reduction act"' by making minor revisions to MCL 460.1005 (Section 5) and adding Section 9. The proposed Section 9 establishes a framework for Locally Distributed Shared Solar (LDSS) facilities in Michigan, enabling multiple subscribers—especially low-income households and service organizations—to receive bill credits for solar energy generated at shared sites. LDSS facilities must meet specific criteria, including limits on size, subscriber ownership, proximity to other projects under common control, and component sourcing (excluding China, North Korea, and Iran). Utilities must provide 25 years of monthly bill credits, offer consolidated billing, and support developer interconnection efforts, while the Public Service Commission must implement rules to ensure equitable access, consumer protections, and a solar generation cap of 20% statewide. Third-party developers must operate at least 25 MW of solar in other states, guarantee 10% bill savings for customers, and allow penalty-free subscription termination. The bill also incentivizes agrivoltaic practices and prohibits solar development on clear-cut public forest land.
Last Action: referred to Committee on Government Operations

The following bills all relate to gender neutrality language changes:
Last Action: bill electronically reproduced 06/10/2025

HB 4606*: Would amend MCL 557.101 et seq. regarding termination of tenancy by the entireties make gender-neutral.

HB 4609*: Would amend MCL 557.21 et seq. regarding the 'Rights and labilities of married women act' to make gender-neutral spousal references.

HB 4611*: Would amend MCL 557.71 regarding the right to manage and contract entireties property by the entireties to make gender-neutral.

HB 4613*: Would amend MCL 557.151 regarding ownership of certain personal property as tenancy by the entireties to make gender-neutral.

HB 4614*: Would amend MCL 565.602 regarding conveyances by attorney in fact to make gender-neutral.

HB 4617*: Would amend 1976 PA 225 regarding deferment of special assessments on certain homesteads to make gender-neutral.

HB 4621*: Would amend 1925 PA 126 by replacing gendered references with gender-neutral language to ensure that, when spouses sell property held as tenants by the entirety and accept a mortgage or land contract as partial payment, the surviving spouse retains the right to receive payments and title unless otherwise stated.

HB 4626*: Would amend the Michigan Community Property Act to replace gender-specific terms with gender-neutral language. It also includes update to preserve historical date-based provisions (The 1948 date acts as a boundary between the old community property system and the now-standard separate property system in Michigan).

*Tie barred with House Joint Resolution F of 2025 which would amend section 1 of article X and repeal section 25 of article I of the state constitution to remove gender limitations.

HB 4640: Would update environmental protection cleanup standards. Tie barred with HB 4638 (criteria and detection limits established by DLEG) and 4636 (cleanup to residential and safe drinking water standards required unless technically infeasible). Similar Senate Bills introduced also. Last Action: bill electronically reproduced 06/10/2025

HB 4682: This bill would modify the property tax exemptions; exemption for the surviving spouse of a disabled veteran; modify. Amends sec. 7b of 1893 PA 206 (MCL 211.7b). Last Action: bill electronically reproduced 06/25/2025

HB 4709: This bill prohibits wind turbines in the great lakes
Last Action: referred to Committee on Government Operations

HB 4741 Property tax: delinquent taxes; sunsets on certain delinquent tax payment reduction and foreclosure avoidance programs; modify. Amends secs. 78g & 78q of 1893 PA 206 (MCL 211.78g & 211.78q).
Last Action: bill electronically reproduced 07/15/2025

6. Kessler Fix.

History: Recall that *Kessler* 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. The Council passed a resolution supporting our proposed amendments to MCL 600.3232 and MCL 600.3240 to correct this. The Legislative Service Bureau has prepared a draft bill that did not contain the language that we sought. We advised Tabitha of this and David Pierson reviewed a further draft in October. Mike Luberto has provided further explanation several times since, as the sponsors and interested parties were not understanding the crux of the conflict between the two statutes and the administration of law issue the bills were intended to fix. The *Kessler* fix bill is HB 6161 and was introduced in correct form during the 2024 legislative session. While it was not and was not expected to be acted on in that session, introducing it during this session gives it priority for re-introduction in 2025. Tabitha believes she has a sponsor for this bill. This spring, a comment was made to our bill but has been withdrawn and will be handled in a separate bill. Tabitha reports our bill is on its way, we have drafts and a sponsor, and we are just awaiting introduction of the bill.

Update: We received a new draft of the *Kessler* fix bill. The committee met on the bill and said there was a missed consumer protection opportunity: there is a per diem charge the purchaser collects from date of sale. The committee proposes that the redemption period and per diem would not accrue from date of sale and instead should start with the recording date if deed recording is delayed beyond 20 days from the date of sale. This allows the financial incentive to align with the requirement to provide an incentive for compliance with the Act. Tabitha is working on getting the *Kessler* fix bill introduced.

7. **HB 4582 – Liability for Property Owners.** Please see attached for an email summary from Amy Smith on behalf of the Legislative Committee, as to HB 4582. The Committee recommends that the Council send this bill to the RPLS insurance and negligence committees for input.
8. **SB 272 – Condominium Act Section 67 Bill.** SB 272 was just introduced on April 30 and appears to be attempting to clarify several technical aspects of Section 67 of the Condominium Act. The Senate Fiscal Agency has not yet published a bill analysis indicating the purpose of the bill. There are a few obvious typographical errors in the bill (“registrar of deeds” “underdeveloped” instead of “undeveloped”). Our members may have different positions on this bill from a policy standpoint. Council input is being sought on whether the Section should take any action at all regarding the SB 272. Kevin Hirzel and Steve Guerra have been invited to discuss the bill at the Council meeting.

SB 0272 of 2025	Senate Bill	Housing: condominium; definition of undeveloped land; modify. Amends sec. 67 of 1978 PA 59 (MCL 559.167). Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
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OLD BUSINESS:

1. **Seller’s Disclosure Statement.** The Legislative Committee recommended to the Council in April that the Real Property Law Section should oppose HB 4110, which proposes the

following change to the Seller's Disclosure Statement form used in Michigan, on the following grounds:

The Real Property Law Section of the State Bar of Michigan opposes HB 4110 because the bill is inconsistent with the purpose of the Seller Disclosure Act since the information to be disclosed is equally available to the buyer, and because the bill interferes with the efficient administration of real property law in Michigan. The interference arises from the bill proposing a confusing requirement for sellers and their representatives to forecast “new” taxes based on “current” state equalized value, requiring sellers to make statements that are inconsistent with each other; referring to a “reduction in the state equalized value” that does not exist in Const 1963, art 10, § 2; requiring sellers to obtain millage information that may not be available; and requiring sellers to distinguish between millages applicable to properties generally, on the one hand, and properties receiving a principal residence exemption, on the other, and without addressing the prospect of principal residence exemptions that are in place for only a partial year or a limited percentage of a property as provided under the General Property Tax Act.

1 BUYERS ARE ADVISED THAT CERTAIN INFORMATION COMPILED PURSUANT
2 TO THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.721
3 TO ~~28.732~~, 28.730, IS AVAILABLE TO THE PUBLIC. BUYERS SEEKING
4 THAT INFORMATION SHOULD CONTACT THE APPROPRIATE LOCAL LAW
5 ENFORCEMENT AGENCY OR SHERIFF'S DEPARTMENT DIRECTLY. BUYER IS
6 ADVISED THAT THE NEW ESTIMATED ANNUAL REAL PROPERTY TAXES ON
7 THE PROPERTY WILL BE \$_____, BASED ON THE CURRENT STATE
8 EQUALIZED VALUE, WITHOUT ANY REDUCTION IN THE STATE EQUALIZED
9 VALUE FOR THE LIMITATION ON INCREASES IN THE TAXABLE VALUE
10 UNDER SECTION 3 OF ARTICLE IX OF THE STATE CONSTITUTION OF
11 1963, AND ALSO BASED ON THE CURRENT APPLICABLE MILLAGE RATES
12 FOR PROPERTY TAXES AND ON THE PROPERTY BEING CLAIMED AS A
13 PRINCIPAL RESIDENCE UNDER SECTION 7CC OF THE GENERAL PROPERTY
14 TAX ACT, 1893 PA 206, MCL 211.7CC.
15 BUYER IS ADVISED THAT THE STATE EQUALIZED VALUE OF THE
16 PROPERTY, PRINCIPAL RESIDENCE EXEMPTION INFORMATION, AND OTHER
17 REAL PROPERTY TAX INFORMATION IS AVAILABLE FROM THE
18 APPROPRIATE LOCAL ASSESSOR'S OFFICE.
19 BUYER SHOULD NOT ASSUME THAT BUYER'S FUTURE TAX BILLS ON THE
20 PROPERTY WILL BE THE SAME AS THE SELLER'S PRESENT TAX BILLS.
21 UNDER MICHIGAN LAW, REAL PROPERTY TAX OBLIGATIONS CAN CHANGE
22 SIGNIFICANTLY WHEN PROPERTY IS TRANSFERRED.

- 2. Foreign Ownership of Land.** Consistent with input from MLTA, the Legislative Committee recommended to the Council in April that the Real Property Law Section should oppose HB 4233 and HB 4234 because they utilize ambiguous terms which are likely to result in problems in the administration of real estate law in Michigan. For example “Agricultural Land” is defined as land suitable for use in farming (and includes any right or interest in such land), which arguably could apply to much of the land in the State. In HB 4234, related to land located near a key facility, the term “key facility” uses the definition for MCL 750.552(c) which

includes (without limitation) a wide variety of utility structures like water treatment facilities, natural gas facilities, transportation facilities, electric transmission facilities, substations, and cell towers, that occur abundantly within Michigan. There is also no protection for lienholders or bona fide purchasers in the bills.

3. **SB 809: Uniform Premarital and Marital Agreements Act.** The Legislative Committee recommended to the Council that the Section oppose SB 809 unless that change is made. Note that the Family Law Section supports the bill without changes and Probate and Estate Planning opposes “in light of its alterations to the Uniform Premarital and Marital Agreement Act.” *David Pierson provides the following insight on this Bill.*

For the most part, this bill affects policy and is outside our usual purview. The problem is with the exemption for certain property transfers. As described in the fiscal analysis, the act sets general rules for such agreements and makes them unenforceable if they were made under duress or if either party did not have access to independent legal representation, had inadequate financial disclosure, or if the terms were unconscionable or created substantial hardship, among other things. To avoid loss to an innocent purchaser who would not have known of an issue, the act includes an exemption for property transfers. The difficulty is that the uniform language does not fit Michigan real property law. The uniform act has an exemption that says (p. 4, lines 9-12):

“This act does not affect adversely the interests of a bona fide purchaser for value to the extent this act applies to a waiver of a marital right or obligation in a transfer or conveyance of property by a spouse to a third party.”

Under Michigan law, “marital right or obligation” has no clear or even apparent meaning. We no longer have dower. Tenancy by the entirety is not a “marital right or obligation” and cannot really be waived. A purchaser could not innocently take property from one spouse anyway, as the title would make clear that both must join in the transfer. To fit Michigan law and read in a way that would be clear to apply, we suggest that the exemption read:

“This act does not affect the interests of a bona fide purchaser for value in a transfer or conveyance of property by either or both spouses to a third party.”

We do not really know why it would be narrower than that, and this language reflects Michigan law for the protection of innocent purchasers. In this context (in both the uniform bill and our draft) “bona fide” means an innocent purchaser who does not have reason to know that there is a problem with the transfer. Either spouse would still have rights against the other spouse, but a property transfer (that may have been years earlier) would not be reversed, with all the consequences that would have for the purchaser, including the mortgage or other costs that would be involved.

4. **Landlord Tenant – Housing Repair Bill (SB 19).** The Legislative Committee recommended to the Council that the Real Property Law Section should oppose SB 19, for the same reasons that we opposed a nearly identical bill last year, HB 5761. SB 19 appears to be a slight rewrite of HB 5761 of 2024. Our reasoning from October 2024 still seems to apply. I have included

the reasoning below and attached the bill to this report. I believe it is fair to say that Tabitha Zimny believes this bill will pass the Senate and get stuck in the House, but the Committee believes it is worth opposing this bill for the following reasons that are not policy related:

- a. This bill presents multiple ambiguities and issues that impact the administration of law.
- b. The timeframes are insufficient for current availability of repairs. In ordinary situations, there is already insufficient availability of skilled contractors to make the timing feasible; upon a casualty or natural disaster or blizzard, these would be unworkable deadlines and a number of these items are not and would not in that event be in landlord's control (electricity, heat, etc.).
- c. The definition of defective condition is ambiguous. The definition of "hazardous to the health and safety of the lessee or licensee" is ambiguous and could be subjectively applied to conditions of which the landlord is unaware in the same manner as an eggshell skull plaintiff. In addition, the obligations are applied to both a tenant and licensee; if a lease is involved, the landlord may have no knowledge of the licensee.
- d. Bedbugs and pests are listed as an example; they can be caused by tenant actions and would not typically be immediately considered a defective condition under real estate law as it exists.
- e. "Reasonable suspicion of mold" is listed as an example of a defective condition, and what would be a reasonable suspicion of mold is ambiguous. In addition, ordinary strains of mold exist in most indoor and outdoor air and surfaces in Michigan.

5. **Judges' Personal Information.** HB 5724 looked to be on track to become law but did not make it through lame duck session.

HB 5724 of 2024	House Bill	Courts: judges; personal information and physical safety protections for judges, their families, and household members; enhance. Creates new act. Last Action: (S-3) PLACED ON ORDER OF THIRD READING WITH SUBSTITUTE (S-3)
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6. **SB 10 - Foreign Ownership of Farmland.** Only one bill affecting real property had been reintroduced as of January 12, SB 10 (attached), prohibiting certain foreign acquisition and ownership of farmland. In 2023-24, several similar bills had been introduced. We will watch this bill. This bill is more streamlined; except for any cleanup to definitions, it appears to be a matter of policy. Its key provision reads as follows, followed by definitions:

18 Sec. 36a. (1) Beginning on the effective date of the
19 amendatory act that added this section, except as otherwise
20 provided in this section, a foreign government or state-sponsored
21 enterprise, or an individual operating on behalf of a foreign
22 government or state-sponsored enterprise, shall not purchase or
23 acquire farmland in this state. A foreign government or state-
24 sponsored enterprise, or an individual operating on behalf of a
25 foreign government or state-sponsored enterprise, that owns or
26 holds farmland in this state before October 1, 2023 may continue to
27 own or hold the farmland but shall not purchase or otherwise
28 acquire additional farmland in this state.

7. **Penalties for Recording False-Fraudulent Documents.** HB 5598 and 5599 passed, and are Public Acts 154 and 155 of 2024; we had already made changes to these fraudulent conveyance of real estate bills which creates a felony for knowingly and willfully drafting or submitting a document to be filed and recorded with a register of deeds in this state with intent to defraud the owner of real estate or the owner of an interest in real estate.

History: At the April Council meeting, Council adopted a statement in opposition to HB 5598 and HB 5599. During May, David Pierson met with the sponsoring legislator's staff and revisions were implemented that ensure that lawyers, title representatives, and others would not have their actions in preparing deeds and performing other administrative tasks criminalized. The bill as revised passed in the House during mid-June and was referred to the Senate.

8. Data Center Use Tax Exemption, Master Plans

SB 0237 of 2023	Senate Bill	Use tax: definitions; data center equipment used by an enterprise data center; exempt. Amends sec. 4cc of 1937 PA 94 (MCL 205.94cc). Last Action: ORDERED ENROLLED NOW PUBLIC ACT 181 OF 2024
HB 5557 of 2024	House Bill	Land use: zoning and growth management; master plans; require to forecast and take into account housing needs. Amends secs. 7, 15 & 33 of 2008 PA 33 (MCL 125.3807 et seq.). Last Action: APPROVED BY THE GOVERNOR 11/13/2024 NOW PUBLIC ACT 153 OF 2024

9. **Uniform Partition of Heirs Property Act (PA 215; HB 4924).** This Act was passed and was presented to the Governor on January 8 and signed on January 17, 2025. This will become effective April 2, 2025. The Act amends the Revised Judicature Act to adopt the Uniform Partition of Heirs Act developed by the Uniform Law Commission, and adopted in 20 other States. The State Bar of Michigan Probate and Estate Section testified in support of the bill. It is designed to protect heirs who inherit real estate as tenants in common against forced partition by real estate speculators, and it supersedes the existing partition procedure only for heirs' property.

At the April 2024 Council meeting, the RPLS Council adopted a statement in opposition to HB 4924 unless certain changes were made. We provided the statement and the proposed changes to Tabitha, who conveyed them to the sponsoring legislator. However, the legislature did not implement the simple fix recommended by RPLS legislative committee. A conflict will exist between the Michigan Court Rules and this statute if a change in Michigan Court Rules is not immediately undertaken. Zach Stewart's analysis for the Legislative Committee is below.

- Currently [before HB 4924] if a partition claim is filed, it is the Michigan Court Rules that contain the procedures to be followed. (MCR 3.401; 3.402; and 3.403). Under the Michigan

Court Rules, where a court determines the property can be partitioned - and by this they mean physically divided - MCR 3.402 governs the proceedings.

- On the other hand, if the court determines that the property cannot be physically divided without “undue prejudice,” the court is to order the property sold “in lieu of partition” in conformance with the process outlined in MCR 3.403.
- The Michigan Court Rules can only be adopted and amended by the Michigan Supreme Court. Under Michigan common law, if there is a conflict between a statute and a court rule, the court rule controls if the new matter pertains to practice and procedure, and the statute controls if the matter concerns substantive law.
- HB 4924 amends Section 3304 of Chapter 33 of Michigan’s Revised Judicature Act. HB 4924 assumes that Section 3304 is a statute that contains the partition procedures for Michigan. It does not.
- Rather, as discussed above, the Michigan Court Rules govern that procedure.
- HB 4924 amends Section 3304 to say that it is subject to UHPA. However, amending Section 3304 is not necessary, as Section 3304 says nothing more than persons who hold property as tenants in common may seek partition.
- What needs to be changed? There needs to be a carve out for “heirs’ property,” away from the court rules, and into the UHPA.
- Ideally the court rules would be amended to say that they do not apply in the case of a partition action brought under the UHPA. If that issue is not fixed within the court rules, a modification of UHPA should be made.

10. Source of Income Discrimination (PA 178, 179, 180 - SB 206, 207, 208; PA 199, 200).

Source of income discrimination provisions for the Landlord Tenant Relationships Act and Elliott Larsen Civil Rights Act passed House and Senate and were signed by the Governor on 12/31/24, but without an effective date because HB 4062 and HB 4063 (tie barred and required by the Acts for effectiveness) were just presented to the Governor on January 8 and signed on January 16. The bills prohibit denial or termination of tenancy, distinction, discrimination or restriction in price, terms and conditions, fees, privileges, availability or income level, or preference (or discouragement) based on source of income.

“Source of income” includes benefits or subsidy programs including housing assistance, housing choice vouchers provided under 42 USC 1437f, public assistance, veterans’ benefits, Social Security, supplemental security income or other retirement programs, and other programs administered by any federal, state, local, or nonprofit entity. Source of income does not include either of the following: (i) Income that a prospective tenant cannot demonstrate is derived from sources and activities permitted by law and is provided on an ongoing basis. (ii) Housing assistance that is not approved by the appropriate agency within 30 days after the landlord provides all information required as a condition of the agency’s approval, including evidence that all repairs required before occupancy have been completed.

HB 4062 will add a cause of action for injunctive relief, damages or both for violation of the Landlord Tenant Relationships Act’s source of income discrimination prohibition, with damages being the lesser of actual damages or 3x monthly rent plus court costs and reasonable attorney fees.

PA 180 adds a cause of action for a civil rights act based on the same situations referenced in the Landlord Tenant Relationships Act. Landlords of 5 or fewer rental units in the State are exempt. All related entities directly or indirectly controlling, controlled by or under common control with a person are counted in that 5.

HB 4063 will provide a definition of source of income for the Elliott Larsen Civil Rights Act by referencing the source of income definition in the Landlord Tenant Relationships Act.

11. Housing-related Bills. Below is a lengthy chart of proposed housing bills and where they sat as of early December 2024. Any bill that did not pass in 2024 is now dead and must be reintroduced in the 2025-26 legislative session. In October, the Council took a position against three of these bills (because there is action on several of them, the reasoning is preserved in this report). Tabitha expects that any housing-related bill that did not make it through in 2024 is not likely to be passed in 2025, even if re-introduced.

BILL NUMBER	Sponsor	DESCRIPTION	STATUS	NOTES
SB 4	Moss	Includes sexual orientation, gender identity or expression as protected classes under Elliott-Larson Civil Rights Act	PA 6 of 2023	Enacted
SB 10	Bellino	Bans local ordinances which ban the use of natural gas or the installation of natural gas infrastructure	Local Government Comm.	
SB 19-20	McBroom	Creates County Board of Revision to resolve commercial property tax appeals; removes Tax Tribunal and further appeal goes to Circuit Court	Finance, Insurance & Consumer Protection Comm.	Already opposed by the Section
SB 31	Cherry	Mandatory lead testing for children of certain ages and in certain high risk geographic areas	PA 146 of 2023	Enacted
SB 41	Hoitenga	Bans local ordinances which ban the use of natural gas appliances	Local Government Comm.	

SB 129-132	Singh,Rivet, Cavanagh, Shink	Amends Brownfield Redevelopment Financing Act to allow local governments to offer TIF incentives for housing	PA 90, 91, 92, 93 of 2023	Enacted/ Part of Housing Michigan Coalition legislative agenda
SB 205-07 (subs)	Cavanagh, Bayer, Irwin	Amends Landlord-Tenant Act and Elliott-Larson Act to ban source of income tenancy denial, and allows damages of up to 3 times rent with court costs and fees for violation	Passed Senate; Passed House. ORDERED ENROLLED	Enacted – PA 178-180
SB 274	Shink	Requires LARA to develop construction decarbonization strategic plan (sets targets for decarbonization; changes to codes; prevailing wage; use stakeholder committee)	Energy & Environment Comm.	
SB 293	Rivet	Amends State Housing Development Authority Act to include missing middle housing	Passed Senate; passed House but vote reconsidered postponed temporarily	Take a position now if a position is desired per Tabitha
SB 408	Irwin	Amends Revised Judicature Act to enact significant garnishment protections for debtors and adversely impact rental property owners	Finance, Insurance & Consumer Protection Comm. REFERRED TO COMMITTEE OF THE WHOLE WITH SUBSTITUTE (S-2)	
SB 451	Lauwers	Construction: contracts; prompt payment law; establish for contractors to pay	Labor	

		subcontractors and suppliers in a timely manner. Creates new act.		
SB 539	Anthony	Amends Landlord-Tenant Act to allow direct deposit/ETF for return of security deposit	Passed Senate; ON SECOND READING IN HOUSE	Take a position now if a position is desired per Tabitha
SB 554	Cavanagh	Allows tenant in metered/sub metered unit to request water/sewer bill and to transfer bill to tenant's name	Housing & Human Services	
SB 661	Bayer	Amends Truth In Renting Act to define "rent" and to add to list of items which may not be included in lease	Housing & Human Services	RPLS opposed. This may go through in lame duck per Tabitha. Legislative Committee is actively working with Tabitha on revisions.
SB 801	Bayer	Allows court expungement of eviction records under certain circumstances	Passed Judiciary Comm. REFERRED TO COMMITTEE OF THE WHOLE	RPLS opposed. This may go through in lame duck per Tabitha. Legislative Committee is actively working with Tabitha on revisions.
SB 883	Bayer	Allows the reuse of certain tenant screening reports	Housing & Human Services	
SB 900	Anthony	Establish the rights of tenants to organize tenant unions	Housing & Human Services	
SB 901	Anthony	Landlord cannot add language to a lease agreement prohibiting the tenant from organizing	Housing & Human Services	
SB 902	Anthony	Landlord cannot alter or waive a tenants right to repairs or deduct rent	Housing & Human Services	
SB 903	Anthony	Removes cross-reference to revised statute 1846; Renter	Housing & Human Services	

		rights if the landlord violates any provisions in the case law		
SB 909	Bellino	Alternative procedure to evict squatter	Civil Rights & Judiciary	
SB 979	Chang	Requires that all rental units have at least one carbon monoxide detector installed in the unit	Housing & Human Services	
HB 4003	Hoskins	Includes sexual orientation, gender identity or expression as protected classes under Elliott-Larson Civil Rights Act	Passed House; in Senate civil rights committee	See SB 4
HB 4036	Zorn	Bans local ordinances which ban the use of natural gas or the installation of natural gas infrastructure	Nat. Resources, Environment, Tourism & Outdoor Rec. Comm.	
HB 4062-63	Conlin, Morgan	Amends Landlord-Tenant Act and Elliott-Larson Act to ban source of income tenancy denial, and allows damages of up to 4.5 times rent with court costs and fees for violation	Passed House w/H-4. REFERRED TO COMMITTEE OF THE WHOLE	See SB 205-207 Take a position now if a position is desired per Tabitha
HB 4273 (S-3)	O'Neal	Amends Housing Law to mandate enforcing agency notification to resident of inspection violations which are a serious/imminent health or safety threat	PA 213 of 2023	Enacted 5/23/23
HB 4532	Hood	State adoption of enforcement of EPA	Passed Health Policy Comm w/H-	(reported out of committee w/ H-5 sub)

		Renovation, Repair & Painting Rule	5. On 3rd reading on floor	Take a position now if a position is desired per Tabitha
HB 4818	Carter	Prohibits use of credit score in determining lease eligibility	Economic Dev & Small Business Comm.	
HB 4837	Conlin	Requires prompt payment for multifamily construction projects 7 units or more (as well as all other commercial projects)	Economic Dev & Small Business Comm.	See SB 451.
HB 4878	Aiyash	Restricts use of criminal record in applicant screening	Economic Dev & Small Business Comm.	
HB 4891	Andrews	Requires refund of application fee upon denial. Allows retention of screening fee if copy of report provided.	Economic Dev & Small Business Comm.	
HB 4947	Rheingans	Repeals state law preempting local rent control	Economic Dev & Small Business Comm.	
HB 4948	Grant	Prohibits landlord request for expunged felonies/misdemeanors and juvenile delinquency	Passed House; Passed the Senate Civil Rights Comm. REFERRED TO COMMITTEE OF THE WHOLE	Take a position now if a position is desired per Tabitha
HB 4966-70	Young, Whitsett, Farhat	Allows cities (Detroit) to enact a land value tax	Passed Tax Policy Comm.	H-2 adopted and amended/third reading
HB 5235	Carter	Requires landlord to screen in chronological order, offer unit to first applicant meeting	Economic Dev & Small Business Comm.	Legislative Committee recommends opposing.

		criteria, and hold for 3 days		
HB 5236	Rheingans	Requires creation of renter rights summary and legal resources, and requires landlord to attach as lease addenda.	Economic Dev & Small Business Comm.	
HB 5237	Dievendorf	Requires courts to establish legal service programs for tenants and landlords.	Economic Dev & Small Business Comm.	
HB 5238	Wilson	Allows court expungement of eviction records under certain circumstances	Economic Dev & Small Business Comm.	
HB 5239	Hood	Requires landlord to pay relocation of 3x monthly rent if safety/dangerous bldg. issues cited by enforcing agency	Economic Dev & Small Business Comm.	
HB 5240	Edwards	Before owner can offer property for sale tenants must be given opportunity to purchase	Economic Dev & Small Business Comm.	Legislative Committee recommends opposing.
HB 5370	Hood	Taxes architectural paint at \$.25 per gallon to be used for lead abatement in residential buildings	Health Policy Comm.	
HB 5384	Roth	Rent Back Agreements -Amend Truth in Renting Act. Would specify that a residence occupied by the seller on a temp basis after a sale is not a residential premises	Passed the House. Referred to Senate committee as a whole	Take a position now if a position is desired per Tabitha
HB 5385	Mentzer	Would amend 1972 PA 348. States a residence occupied by the seller on a temp	Passed the House. Referred to Senate	Take a position now if a position is desired per Tabitha

		basis after the sale is not a rental unit	committee as a whole	
HB 5386	Breen	Amend revised judicature act to all eviction procedures be used when a seller continues to possess the property after a rent-back agreement has expired	Passed the House. Referred to Senate committee as a whole	Take a position now if a position is desired per Tabitha
HB 5438	Andrews	Short term rental	Local Government Comm.	
HB 5564	Fink	To limit the powers of a local government unit regarding the leasing of private residential property.	Economic Dev & Small Business Comm.	
HB 5557	Grant	Local units of gov't when updating their masterplans would include housing types, cost, affordability, ages, etc. to serve housing demands.	Passed House; On third reading in Senate, reported favorably from committee of the whole	This is moving quickly through the Senate as of 10-16-24. assigned PA 153'24
HB 5605	Carter	Provides acceptance of reusable screening report	Economic Dev & Small Business Comm.	
HB 5630	McKinney	Provides modifications for notifications of eviction and foreclosure for people with disabilities.	Economic Dev & Small Business Comm.	
HB 5631	Paiz	Modifies requirements for notifications in foreclosure and eviction proceedings.	Economic Dev & Small Business Comm.	
HB 5634	Borton	Alternative procedure to evict squatter	Economic Dev & Small Business Comm.	

HB 5753	O'Neal	Increases notice period to terminate a tenancy for nonpayment of rent	Economic Dev & Small Business Comm.	
HB 5754	Tsernoglou	Evictions: modifies redemption time period and process for tenancy	Economic Dev & Small Business Comm.	
HB 5755	Wilson	Provides sealing of court records for eviction	Economic Dev & Small Business Comm.	
HB 5756	Price	Rental possession for tenants in foreclosures, Establishing grounds for good cause	Economic Dev & Small Business Comm.	
HB 5757	Carter	Update cross-reference to summary proceedings to recover possession of premises	Economic Dev & Small Business Comm.	
HB 5758	Paiz	Summary of tenant rights, require state court administrative office to provide	Economic Dev & Small Business Comm.	
HB 5759	Hoskins	Requires the department to make form containing summary of tenants' rights; state must make available to the public	Economic Dev & Small Business Comm.	
HB 5760	Hoskins	Requires the authority to make the form containing a summary of tenants' rights available to the public	Economic Dev & Small Business Comm.	
HB 5761	Neeley	Provides public notification of defective conditions on premises and time limits for landlords to commence repairs	Economic Dev & Small Business Comm.	Legislative Committee recommends opposing.
HB 5762	O'Neal	Removes cross-reference to revised statute of 1846; Rental	Economic Dev & Small	

		agreement language violations	Business Comm.	
HB 5763	Morgan	Modifies provisions for tenants to escrow rent when certificate is withheld pending compliance	Economic Dev & Small Business Comm.	
HB 5764	Young	Modifies rent abatement remedies and awards attorney fees	Economic Dev & Small Business Comm.	
HB 5765	Hope	Modifies award for unlawful eviction	Economic Dev & Small Business Comm.	
HB 5766	Carter	Update methods of communication between landlords and tenants	Economic Dev & Small Business Comm.	
HB 5767	Edwards	Expand notice requirements for early lease termination for certain victims of violence	Economic Dev & Small Business Comm.	
HB 5940	Aragona	Repeals the homeowners energy policy act	Government Operations	
HB 6001	Young	Modifies the method for serving blight violation notices	Local Government Comm.	

SB 661: *Amends Truth In Renting Act to define "rent" and to add to list of items which may not be included in lease.* “Rent” as defined in the Act includes heat, safe and clean hot and cold running water, sewer, electric, gas, safe and operable plumbing and sewerage systems, ventilation, electrical, drainage, roofing systems, trash and snow removal, pest and vermin control, lawn care, locks for exterior doors, latches for windows, cooking appliances or a refrigerator supplied by Landlord in compliance with applicable federal, state and local safety standards. This bill outlaws charges that are not reasonable, that are not connected to “a nonessential service that is provided to the tenant at the tenant's option and is directly and primarily beneficial to the tenant” (query: who decides whether the service is directly and primarily beneficial to tenant and is this subjective?) or that are connected with a third party service; it outlaws requirements of notice of nonrenewal greater than 1 month, late fees in excess of \$30 or 3%, charges or fees imposed to the tenancy after the initial term (query: would this mean no rent can be charged to renewal terms?), or application of payments to fees before rent, required arbitration, or prohibits a tenant from paying rent by any lawful method (query: must landlords accept bitcoin, Euros, etc?.).

The Legislative Committee recommended in October that this bill be opposed unless edits are made to avoid ambiguity. More specifically:

1. Expanded Definition of "Rent" (Section 2(a)): The addition to the definition of "rent" includes the cost of providing essential services necessary for the use or occupancy of a rental unit, such as heat, safe and clean hot and cold running water, sewer, electric, gas, safe and operable plumbing and sewerage systems, ventilation, electrical, drainage, roofing systems, trash and snow removal, pest and vermin control, lawn care, locks for exterior doors, latches for windows, cooking appliances or a refrigerator supplied by Landlord. The phrasing raises several issues:
 - a. Ambiguity in Scope: The term "essential services" is broadly defined and could be interpreted inconsistently by landlords and tenants. For example, what constitutes "safe" hot and cold running water or "operable" plumbing could vary from one party to another. Also, "cooking appliances" is vague. "A nonessential service that is provided to the tenant at the tenant's option and is directly and primarily beneficial to the tenant" is subjective and not well defined. "Charges or fees imposed to the tenancy after the initial term" is also not clearly defined and is likely to cause disputes, as is the meaning of paying rent "by any lawful method"
 - b. Lack of Clear Criteria: There is no standard or clear criteria for determining whether these essential services meet the legal definition of "necessary for use and occupancy" or whether they are "directly and primarily beneficial to the tenant."
2. Safe and Operable Essential Services Not in Landlord's Control: The bill requires the landlord to provide (and beginning with the effective date of the Act the term "rent" includes) "safe and operable" electrical, drainage, sewer, appliances etc. as part of "essential services." Electrical outages can result from weather and casualty events; sewer backups can occur as a result of municipal sewer issues; municipal water can contain lead or PFAs, such that some might not deem it "clean and safe," and appliances can have manufacturers' defects; but none of these is within Landlord's control and the bill. This is not addressed; it is unclear what the intended broader impact is of including these items within the definition of rent, and if they are interrupted or found later not to be clean and safe, what is the impact.
3. Imposition of Fees (Section 3(1)(o)). The bill introduces several prohibitions on fees and charges imposed by landlords. The addition that landlords cannot impose a fee that is "not reasonable" is highly subjective and seems likely to lead to litigation.

SB 801: *Allows court sealing or expungement of eviction records under certain circumstances, including if the tenant pays the judgment, the judgment is less than \$900, or tenant vacates before summary proceedings are filed, or in a number of other events including foreclosure or involvement of public money. Eviction records would automatically be expunged after 2 years.* This bill seals multiple eviction records and adds a cause of action against anyone aware of an eviction action for basing adverse action on a court record known to be sealed. Tenant gets actual damages or \$500 plus reasonable attorney fees and equitable relief for a violation of the bill.

The Legislative Committee recommended in October that this bill be opposed unless changes are made. This bill presents clear issues with the administration of real estate law.

1. A landlord who has previously evicted a tenant would be aware of the previous eviction and so would be prohibited from basing any adverse action on the previous eviction; therefore, once a landlord evicts a tenant they would be forced to violate the bill (and face fines, attorney fees and equitable relief) or would have to perpetually rent again to the tenant they just evicted.

HB 5235: *Requires landlord to screen in chronological order, offer unit to first applicant meeting criteria, and hold for 3 days.* Landlord must note the date and time of receipt of each rental application and screen them in chronological order, and must offer the unit to the first prospective tenant that meets criteria (open for 3 business days). There is an exemption if the landlord is legally obligated to set aside a unit(s) for homeless persons, survivors of domestic violence or low income individuals. The bill is ambiguous and would be challenging to enforce.

The Legislative Committee recommended in October that this bill be opposed. This bill presents ambiguities.

1. The requirement for landlords to record the exact "date and time" of when an application is received, regardless of submission method (in person, electronically, or by mail), lacks clear guidelines for how different formats should be handled uniformly, which could lead to disputes over prioritization.
2. The bill also mandates that landlords screen applications "in chronological order" based on receipt, but the process for verifying the accuracy of submission timestamps is not specified, leading to potential conflicts if tenants challenge the order in which their applications are considered.
3. The term "screening criteria" is not clearly defined, leaving landlords with broad discretion and creating room for disputes or inconsistent application of standards, which could lead to allegations of discrimination or unfair treatment.
4. The provision requiring landlords to offer the rental unit to the first applicant who meets all screening criteria creates additional ambiguity around what constitutes an "offer" and whether verbal or written communication is required.
5. The three-day acceptance window is rigid and may not provide sufficient flexibility in real-world scenarios where prospective tenants need more time to make decisions or communicate effectively.

HB 5240: *Before owner can offer property for sale tenants must be given opportunity to purchase.*

The Legislative Committee recommended in October that this bill be opposed. This bill presents multiple ambiguities.

1. First, the process in the bill is circular: it requires the landlord to offer the premises for sale to the tenant *before* offering them for sale or soliciting offers, but then says the sale will be "at a price and terms that represent a bona fide offer for sale."
2. Then the definition of a "bona fide offer of sale" is unclear.
3. Phrases like "at least as favorable" and "comparable to that at which a willing seller and buyer would sell" are subjective and lack clear criteria for determining what the price and sale terms would be and even what constitutes a legitimate offer.
4. The absence of a clear method for determining a price or an appraised value further complicates this issue.

5. No process of exercising the right of first offer is specified.
6. Additionally, the bill does not specify a time frame for how long tenants or tenant associations have to respond to an offer, creating uncertainty about the timeline for the right of first refusal to purchase. This lack of procedural clarity could create disputes, delay transactions, or lead to conflicts about whether tenants were given sufficient opportunity or process to exercise their rights, and whether or when landlords are able to sell free and clear of the tenants' rights.
7. There is no exemption for related party transfers (any transfer "in exchange, in exchange for money or any other thing of economic value" is a trigger); so a transfer to a trust, an LLC wholly owned by the current owner, an heir on death, a family member, or an affiliate still seems to trigger the right of first offer.
8. The definition of a "tenant association" is also problematic, as the bill requires that the association represent at least a majority of tenants but does not specify how disputes over representation are resolved. This could lead to challenges regarding the legitimacy of tenant associations, especially if some tenants do not wish to participate.
9. Moreover, the definition of "sale" is overly broad, encompassing any transfer of a "present interest," which could include a wide range of transactions beyond a traditional sale, such as long-term leases or beneficial use agreements. This lack of precision could result in confusion about which transactions trigger tenants' rights.
10. The bill also lacks enforcement provisions, making it unclear how tenants can compel compliance if a landlord fails to follow the law or vice versa. Without specified remedies or penalties, landlords could easily circumvent the law, and tenants would have no clear recourse, and likewise there could be interruptions in the sale process and title insurance since there is no clear method of closing out tenants' rights.
11. Additionally, there is no arbitration or mediation process to resolve disputes over price or terms, which could force parties into costly and time-consuming litigation.
12. Finally, the exemption for unsolicited offers creates a potential loophole, as landlords could argue that any offer to purchase was unsolicited in order to avoid giving tenants the right to buy.

HB 5761: *Provides public notification of defective conditions on premises and time limits for landlords to commence repairs.* Repairs of hot or cold water, plumbing fixtures, heat, electricity, defective condition imminently hazardous to life or health and safety including bedbugs or other pests or reasonable suspicion or presence of mold require the landlord to commence repairs or removal not > 24 hours after receipt of notice from tenant. For defective conditions that deprive tenant of use of refrigerator, range, oven or other supplied appliances, repair must occur 72 hours after notice. In all other cases, repairs must be commenced not > 10 days after notice. Notice can be email, text or any way the tenant previously has communicated with landlord (would social media suffice if the parties have exchanged messages that way once in past?).

The Legislative Committee recommended in October that this bill be opposed. This bill presents multiple ambiguities and issues that impact the administration of law.

1. The timeframes are insufficient for current availability of repairs. In ordinary situations, there is already insufficient availability of skilled contractors to make the timing feasible; upon a casualty or natural disaster or blizzard, these would be unworkable deadlines and a number of these items are not and would not in that event be in landlord's control (electricity, heat, etc.).

2. The definition of defective condition is ambiguous. The definition of “hazardous to the health and safety of the lessee or licensee” is ambiguous and could be subjectively applied to conditions of which the landlord is unaware in the same manner as an eggshell skull plaintiff. In addition, the obligations are applied to both a tenant and licensee; if a lease is involved, the landlord may have no knowledge of the licensee.
3. Bedbugs and pests are listed as an example; they can be caused by tenant actions and would not typically be immediately considered a defective condition under real estate law as it exists.
4. “Reasonable suspicion of mold” is listed as an example of a defective condition, and what would be a reasonable suspicion of mold is ambiguous. In addition, ordinary strains of mold exist in most indoor and outdoor air and surfaces in Michigan.
5. Typically text, social media, or other less formal methods are not utilized as a method of service when a statutory violation is at stake.

12. Other Past Legislative updates:

- a. **Penalties for Failure to File Property Transfer Affidavit.** On June 26, 2024 SJB 175 of 2023 was passed, and it was approved by the Governor on July 23, 2024 and is now Public Act 97 of 2024, effective Sine Die (91st day after final adjournment of the 2024 Regular Session). The Act amends the General Property Tax Act to increase the fines for failure to file a Property Transfer Affidavit (previously \$5/day up to \$200) to a maximum of \$4,000, except if the property is owned and occupied as a principal residence (maximum remains \$200). Penalties are a lien against the property if the property is still owned by the person who failed to notify the assessing office of the transfer. This bill was reportedly to address flippers who try to avoid uncapping. According to the legislature:

If the property were subsequently transferred to a person that did properly notify the assessing officer, the penalties would be levied as a personal liability on the person that failed to record the previous transfer, rather than against the property. In these cases, the penalties would be collected and distributed in the same manner as penalties levied against a property. The bill would also allow the governing body of the local tax collecting unit to waive the penalties in excess of the additional taxes or interest and penalties assessed on those taxes by resolution if penalties are levied against the personal liability of the person. If the amounts are treated as a personal liability, the state treasurer or their authorized representative would have to serve as the collection agent upon request of the local treasurer. In such cases, the state would retain up to 20% of any amounts recovered as its collection fee and distribute the remaining recovered amounts to the treasurer of the local tax collecting unit to be distributed as required by the act. The collections would be administered as described in section 25 of 1941 PA 122.

- b. **Right-to-list Home Sale Agreements.** SB 602 of 2023 was given immediate effect and became effective on July 25, 2024. The Act makes “right-to-list-home sale agreements” with respect to residential real estate void and unenforceable if they are not in writing, or not signed by all persons with an ownership interest in residential real estate, or if they are for a period more than 2 years, unless (i) there is an option to terminate for consideration that is not greater than the amount the broker paid the owner plus 6% interest per annum and (ii) the term of the agreement and explanation of the early termination option is on the first page of the agreement in a conspicuous manner. The Act also makes entering into a void and unenforceable right to list sale agreement a violation of a broker’s license. Under the Act, “Right-to-list home sale

agreement” means an agreement between an owner of residential real estate and a real estate broker that obligates the owner to list the residential real estate for sale with the real estate broker at a future date in exchange for consideration. As used in this subdivision, “residential real estate” means the type of real estate described in section 2517(3). Right-to-list home sale agreement does not include a service provision agreement.

- c. **MSHDA Pass Through Bond Program for Senior Housing Projects.** Senate Bill 417 passed and became Public Act 71 of 2024 effective July 8, 2024. The Act did the following per the legislative summary:
 - . . . *amend the State Housing and Development Authority Act to make several modifications to the Michigan State Housing Development Authority (MSHDA) PassThrough Bond Program, including authorizing MSHDA to use the proceeds of the bonds to finance certain senior housing projects, accept private placements as a form of credit enhancement, and allow eligible borrowers to have up to \$100.0 million in outstanding loan commitments. The Pass-Through Bond Program allows MSHDA to issue bonds to finance a project undertaken by an eligible housing developer. The bonds are a limited obligation of MSHDA, not secured by MSHDA’s capital reserve account, and not backed by the moral obligation of the state. To protect MSHDA from risk, the bonds are secured by the revenues of the borrower, the real and personal property being financed, and an acceptable form of credit enhancement.*¹ *Eligible projects Under the State Housing and Development Authority Act, MSHDA can use the proceeds of the bonds to make loans to eligible entities (such as a nonprofit housing corporation, limited dividend housing association, mobile home park corporation, or public body or agency) for the construction, rehabilitation, or long-term financing of multi-family housing projects for students or for which at least 20% of the units are allocated for low- and moderate-income persons. The loans can also be used for social, recreational, commercial, or communal facilities to serve and improve the residential area in which a project is or will be located.*² *Under SB 417, multi-family housing projects that include independent living, congregate care, and assisted living units for individuals who are at least 55 years old would be eligible for the program. The bill would also no longer require the pass-through program to provide long-term financing for eligible projects.*
- d. **Alternative Energy and Owners Associations.** We had been monitoring HB 5109 and HB 5028, both of which would impact the power of homeowners and condo associations regarding alternative energy installations. HB 5109, which would allow associations to permit certain improvements aimed at energy efficiency, has had no action. HB 5028, on the other hand, was adopted at 2024 PA 68. It invalidates provisions in association documents that would prohibit “energy saving improvements,” which it treats broadly without posing a specific definition. It also imposes other requirements on owners associations. This is effective Sine Die (91st day after final adjournment of the 2024 Regular Session).
- e. **HB 5724.** This bill requires that personal information identifying addresses, for example, for judges, for example, must be redacted from recorded documents. The bill passed the House on June 27, 2024, and will be transmitted to the Senate. The State Bar of Michigan supports the bill, so we cannot oppose it. We are trying to meet with the State Bar’s legislative staff to at least discuss certain concerns before the Senate takes up the bill. The bill was referred to

Committee on Civil Rights, Judiciary and Public Safety on 7/3/2024. David Pierson and Tabitha Zimny met with David Martyn and Nathan Triplett on this in September.

- f. **Land Contract Reform.** On April 17, Tabitha sent draft bills that Rep. Grant prepared asking for our comments. David Pierson provided comments to Tabitha. As was the case when this topic arose a few years ago, many of the comments explained that if the proposed legislation were limited to residential contracts, we would be unlikely to oppose it. Tabitha is following up on this because the current drafts still have drafting errors and do not remove commercial land contracts.
- g. **Landlord-Tenant and Foreclosure Issues.** There are a number of bills pending regarding residential landlord-tenant issues. Bills introduced during May 2024 include HB 5753 through HB 5767, which variously pertain to issues involving notice, redemption, communication, escrow of funds, termination of tenancy, notices of tenant rights, and remedies for tenants including attorney fees. In older matters, HB 5630 and HB 5631 would amend provisions relating to landlord-tenant and foreclosure law, including imposing new requirements on foreclosing parties, landlords, and others, regarding their efforts to remove persons with disabilities from a property. There has been no activity with the bills since their introduction. Tabitha Zimny indicates this is going nowhere at the moment. The sponsors would like to find something that they could bring forward. I will send along to Tabitha the list reviewed by the Legislative Committee last year of topic areas within the set of bills that do not appear to create huge legal crises within landlord tenant law. Tabitha has suggested statewide landlord licensure as one route to administer standardized education to landlords and to cull problematic landlords. The Committee's and Council's input is sought on this general idea (no bill is pending).
- h. **Tenancy by the Entireties Bills.** Previously, David sent Tabitha a list of statutes to be amended to correct the lingering issues arising out of Michigan's failure to implement the Supreme Court's decision in *Obergefell v Hodges*. Fourteen bills were introduced to remedy the issues (with various sponsors but organized by the legislative LGBTQ+ Caucus). As introduced, all of the bills are tie-barred to 2023 House Joint Resolution F, which would amend the Michigan Constitution by striking Const 1963, art 1, § 25, the provision for "one man-one woman" marriage adopted in 2004, and amending Const 1963, art 10, § 1, which related to coverture, to make it gender-neutral. The amendments would require approval by statewide vote. Because the bills were tie-barred to HJR F, nothing will happen with them until that vote takes place.

TBE issues are happening in real time, however, so the Legislative Committee has continued to pursue these issues. Tabitha is pursuing potential sponsors for the bill. She thinks we may be able to get it introduced this session. Although no action is likely, that may give us a leg up for the next year. Tabitha talked to Rep. Moss and Rep. Filler about it but does not have a sponsor yet.

- i. **Statewide Form of Purchase Agreement.** Per Tabitha, mortgage lenders would like to see a statewide form of purchase agreement. They are pitching the idea to the public policy committee later this month.

16. Other RPLS Positions. This summarizes the recent instances of Council approving a formal RPLS position on proposed legislation in addition to the instances discussed above.

- a. **Blight Citations.** At the Council meeting on September 13, 2023, Council voted to oppose HB 4332, which would amend the Home Rule Cities Act to provide for certain citations for property owners whose properties have blight violations, based on the bill allowing service by first-class mail and email if there is a “good faith” effort at personal service that fails, which can lead to blight violations and even criminal convictions. The bill passed the House and Senate and was presented to the Governor on June 27. She did not sign or veto, so under Michigan law, the bill became law on July 11, which is 14 days after it was presented to her. It has not been assigned a public act number as of the date of this Report.
- b. **Prompt Pay Bills.** At the Council meeting at the summer conference on July 21, 2023, Council voted to oppose HB 4837 and SB 0451, which are the subcontractor “prompt payment” bills. Since their introduction, there has been no activity with these bills.
- c. **Foreign Ownership.** Council decided to monitor HB 5050 and HB 5073. There has been no action on these bills since their introduction.
- d. **Tax Tribunal.** Council voted to oppose SB 19 and SB 20, which would take certain cases involving commercial property away from the Tax Tribunal and grant jurisdiction over them to a local board. These bills were a reaction to the courts’ treatment of a tax case called *Menard’s, Inc v City of Escanaba*, involving “big box” stores. There has been no activity since the bills’ introduction.

17. Further Old Business.

- a. **Housing.** The Legislature saw a number of bills pertaining to housing. They are listed in the “new legislation” section of this Report, but include bills pertaining to landlord-tenant issues involving security deposits, utilities, and other mostly residential-oriented matters.
- b. **Alternative Energy.** Bills were introduced, approved by committees, and adopted by the Legislature to allow the Michigan Public Service Commission to site alternative energy installations such as solar farms and windmills notwithstanding local zoning. Two of the bills were adopted as 2023 PA 233 and 234. These bills moved on a schedule that did not allow the RPLS to take a position.
- c. **2022 PA 234, MCL 565.861 et seq.** This was the act adopted to allow for removal of racial and other odious restrictive covenants from title documents. The RPLS had suggested revisions pertaining to the capacity of the persons signing the documents to remove the restrictions. The act was adopted without our revisions. Sen. Anthony initially expressed that she would work with us to address the revisions but then declined to do so. Tabitha is continuing to work on getting us back in front of Sen. Anthony and her staff to address our concerns.

18. The following bills were discussed in our April 2025 meeting:

SB 0023 of 2025	Land use: land division; number of parcels resulting from division; authorize counties and municipalities to increase. Amends sec. 108 of 1967 PA 288 (MCL 560.108).
SB 0110 of 2025	Property tax: exemptions; homestead property tax exemption for the surviving spouse of an emergency first responder killed in the line of duty; provide for. Amends sec. 7b of 1893 PA 206 (MCL 211.7b). Last Action: REFERRED TO COMMITTEE ON FINANCE, INSURANCE, AND CONSUMER PROTECTION
SB 0141 of 2025	Environmental protection: air pollution; methane and VOCs from oil or gas wells; require control or capture of. Amends 1994 PA 451 (MCL 324.101 - 324.90106) by adding sec. 61506e. Last Action: REFERRED TO COMMITTEE ON NATURAL RESOURCES AND AGRICULTURE
SB 0192 of 2025	Property tax: exemptions; freeze of taxable value for primary residences of certain senior citizens; provide for. Last Action: REFERRED TO COMMITTEE ON FINANCE, INSURANCE, AND CONSUMER PROTECTION
SB 0196 of 2025	Property tax: exemptions; exemption for disabled veterans; modify. Last Action: REFERRED TO COMMITTEE ON FINANCE, INSURANCE, AND CONSUMER PROTECTION
HB 4014 of 2025	Property tax: assessments; transfer of ownership of certain real property to certain individuals; exempt from uncapping of taxable value upon transfer. Amends sec. 27a of 1893 PA 206 (MCL 211.27a). Last Action: Referred to Committee on Finance, Insurance, and Consumer Protection
HB 4079 of 2025	Property tax: special assessments; income eligibility cap for special assessment deferment program; modify. Amends secs. 3 & 4 of 1976 PA 225 (MCL 211.763 & 211.764). TIE BAR WITH: HB 4080'25 Last Action: bill electronically reproduced 02/12/2025
HB 4080 of 2025	Property tax: special assessments; special assessment deferment program; reinstate. Amends secs. 1 & 2 of 1976 PA 225 (MCL 211.761 & 211.762). TIE BAR WITH: HB 4079'25 Last Action: bill electronically reproduced 02/12/2025
HB 4081 of 2025	Land use: land division; number of parcels resulting from division; authorize counties and municipalities to increase. Amends sec. 108 of 1967 PA 288 (MCL 560.108). Last Action: bill electronically reproduced 02/12/2025
HB 4085 of 2025	Land use: zoning and growth management; mining cryptocurrency inside of an area that is zoned for industrial use; allow. Amends 2006 PA 110 (MCL 125.3101 - 125.3702) by adding sec. 515. Last Action: bill electronically reproduced 02/13/2025

HB 4097 of 2025	House Bill	Construction: public buildings; placement of certain antennas on public school buildings, rooftops, and adjacent structures; prohibit. Amends 1937 PA 306 (MCL 388.851 - 388.855a) by adding sec. 1e. Last Action: bill electronically reproduced 02/20/2025
HB 4098 of 2025	House Bill	Property tax: tax tribunal; methods for tax tribunal to hold hearings; expand to include electronically. Amends secs. 26 & 34 of 1973 PA 186 (MCL 205.726 & 205.734). TIE BAR WITH: HB 4099'25 Last Action: bill electronically reproduced 02/20/2025
HB 4099 of 2025	House Bill	Civil rights: open meetings; electronic hearings of the tax tribunal; permit under the open meetings act. Amends sec. 3a of 1976 PA 267 (MCL 15.263a). TIE BAR WITH: HB 4098'25 Last Action: bill electronically reproduced 02/20/2025

HB 4110 of 2025	House Bill	Property: land sales; seller disclosure statement; require to reflect yearly property taxes based on current assessed value of property. Amends sec. 7 of 1993 PA 92 (MCL 565.957). Last Action: bill electronically reproduced 02/26/2025
HB 4111 of 2025	House Bill	Property tax: exemptions; personal property constituting certain hydrogen fuel pumps; exempt. Amends secs. 27 & 34d of 1893 PA 206 (MCL 211.27 & 211.34d) & adds sec. 9q. TIE BAR WITH: HB 4112'25 Last Action: bill electronically reproduced 02/26/2025
HB 4112 of 2025	House Bill	Economic development: Michigan economic growth authority; definition of new construction under the Michigan economic growth authority act; modify. Amends sec. 3 of 1995 PA 24 (MCL 207.803). TIE BAR WITH: HB 4111'25 Last Action: bill electronically reproduced 02/26/2025
HB 4121 of 2025	House Bill	Property tax: other; locally adopted cap on a local unit's own authority to levy a property tax millage; prohibit. Amends 1893 PA 206 (MCL 211.1 - 211.155) by adding sec. 34f. Last Action: bill electronically reproduced 02/26/2025

HB 4197 of 2025	Housing: homeless; homeless bill of rights; provide for. Creates new act.	
HB 4233 of 2025	Property: land sales; prohibition for foreign entity to purchase farmland in Michigan; provide for. Amends title & secs. 35 & 36 of 1846 RS 66 (MCL 554.135 & 554.136) by adding sec. 36a.	
HB 4234 of 2025	Property: land sales; sale or transfer of agricultural assets or land to foreign entities; prohibit. Amends title & secs. 35 & 36 of 1846 RS 66 (MCL 554.135 & 554.136) & adds secs. 36a & 36b.	

HB 4274 of 2025	Criminal procedure: forfeiture; mineral rights acquired by certain foreign entities; make subject to forfeiture procedures. Amends sec. 4701 of 1961 PA 236 (MCL 600.4701). TIE BAR WITH: HB 4275'25 Last Action: bill electronically reproduced 03/25/2025
HB 4275 of 2025	Natural resources: other; acquisition of mineral rights by certain foreign entities; prohibit. Creates new act. TIE BAR WITH: HB 4274'25 Last Action: bill electronically reproduced 03/25/2025
HB 4276 of 2025	Liquor: retail sales; restrictions on licensees owning and operating a motor fuel pump; modify. Amends sec. 541 of 1998 PA 58 (MCL 436.1541). Last Action: bill electronically reproduced 03/25/2025

19. Other recent 2025-26 Session Bills. The following bills were discussed at our February, 2025 meeting:

SB 0010 of 2025	Property: land sales; sale or transfer of real property to foreign entities; prohibit. Amends title & secs. 35 & 36 of 1846 RS 66 (MCL 554.135 & 554.136) & adds sec. 36a. Last Action: REFERRED TO COMMITTEE ON GOVERNMENT OPERATIONS
SB 0016 of 2025	Land use: farmland and open space; relinquishment of portion of farmland from agreement or easement; allow to make boundaries more regular. Amends secs. 36103, 36110 & 36111 of 1994 PA 451 (MCL 324.36103 et seq.). Last Action: REFERRED TO COMMITTEE ON NATURAL RESOURCES AND AGRICULTURE
SB 0019 of 2025	Housing: landlord and tenants; tenants rights to repair; provide for. Amends sec. 39 of 1846 RS 66 (MCL 554.139). TIE BAR WITH: SB 0021'25, SB 0020'25 Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
SB 0020 of 2025	Housing: landlord and tenants; cross-reference to the revised statutes of 1846; remove. Amends sec. 6 of 1978 PA 454 (MCL 554.636). TIE BAR WITH: SB 0021'25, SB 0019'25 Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
SB 0021 of 2025	Housing: landlord and tenants; prohibition against tenants forming a union; disallow in truth in renting act. Amends secs. 3 & 4 of 1978 PA 454 (MCL 554.633 & 554.634). TIE BAR WITH: SB 0019'25, SB 0020'25 Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
SB 0022 of 2025	Housing: landlord and tenants; return of security deposit by electronic transfer; allow. Amends sec. 9 of 1972 PA 348 (MCL 554.609). Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
SB 0023 of 2025	Land use: land division; number of parcels resulting from division; authorize counties and municipalities to increase. Amends sec. 108 of 1967 PA 288 (MCL 560.108). Last Action: REFERRED TO COMMITTEE ON LOCAL GOVERNMENT
HB 4027 of 2025	Land use: zoning and growth management; provision subjecting zoning authority to part 8 of clean and renewable energy and energy waste reduction act; delete. Amends sec. 205 of 2006 PA 110 (MCL 125.3205). TIE BAR WITH: HB 4028'25 Last Action: bill electronically reproduced 01/28/2025

HB 4028 of 2025	Energy: alternative sources; zoning exemptions for large-scale solar, wind, and energy storage facilities; eliminate. Amends title & sec. 13 of 2008 PA 295 (MCL 460.1013) & repeals pt. 8 of 2008 PA 295 (MCL 460.1221 - 460.1232). TIE BAR WITH: HB 4027'25 Last Action: bill electronically reproduced 01/28/2025
HB 4035 of 2025	Environmental protection: sewage; violations for sewer overflows; modify. Amends 1994 PA 451 (MCL 324.101 - 324.90106) by adding sec. 3115b. Last Action: bill electronically reproduced 01/28/2025
HB 4041 of 2025	Property tax: exemptions; continuation of poverty exemption, without subsequent application, for homeowner who previously established eligibility; provide for in certain circumstances. Amends sec. 7u of 1893 PA 206 (MCL 211.7u). Last Action: bill electronically reproduced 01/30/2025
HB 4049 of 2025	Land use: zoning and growth management; rearing of hen chickens in residential areas; allow. Amends sec. 204 of 2006 PA 110 (MCL 125.3204). TIE BAR WITH: HB 4050'25 Last Action: bill electronically reproduced 01/30/2025
HB 4050 of 2025	Agriculture: animals; generally accepted agricultural and management practices for rearing egg-laying hens in residential areas under certain conditions; provide for. Amends sec. 4 of 1981 PA 93 (MCL 286.474). TIE BAR WITH: HB 4049'25 Last Action: bill electronically reproduced 01/30/2025
HB 4021 of 2025	Civil procedure: evictions; pretrial and trial; require pretrial, and allow trial and pretrial to be conducted by magistrate. Amends secs. 5735 & 8511 of 1961 PA 236 (MCL 600.5735 & 600.8511). Last Action: bill electronically reproduced 01/28/2025

20. Other topics to watch in 2025 affecting Real Property. All bills are wiped clean at the end of the 2024 session and need to be re-introduced for the 2025-26 legislative session. However, it is instructive to the Section to know what bills passed one house during lame duck and might make progress when they are reintroduced. Here is a list of those topics and bill numbers (using 2023-24 numbering as very little has been re-introduced) with Tabitha's input:

- SB 480 - Land divisions (20 divisions for first 10 acres instead of 4, reportedly with a draft compromise of 10 divisions) – passed Senate and went to second reading in House in lame duck.
- SB 539 – return of security deposit by electronic transfer - passed Senate and went to second reading in House in lame duck
- HB 5386 – Eviction after expiration of temporary possession under sales agreement passed House 4/30/24, reported by committee of the whole 12/18/24 in Senate
- SB 1169 – agricultural preservation; adjusts the amount of annual expenditures from \$1.4million to \$2.1 million and allows CPI adjustment.
- HB 5882 - electronic notaries passed House 12/10/24 referred to Senate committee on government operations 12/18/24 (Land Title is opposed per Tabitha)
- HB 6096, 6097, 6098 - permitting duplexes in single family residential zones and prohibit requirement for repeat studies, and revise protest petition requirements. Read in House 12/13/24
- HB 6192 Land division, for relinquishment of easements including utilities and walkways
- HB 5238 - eviction expungement passed house and went to Senate committee on government operations (this is not likely to move per Tabitha)

- HB 5384/5385 - definition of residential premises for landlord/tenant passed House 4/30/24, reported by committee of the whole 12/18/24 in Senate (this is not likely to move per Tabitha)
- HB 6165 - critical dunes development (this is not likely to move per Tabitha)
- HB 6173 – adding septic inspection to Seller disclosure statement (this is not likely to move per Tabitha)
- HB 6188 pilot project for development rights market program (this is not likely to move per Tabitha)

21. The following bills were introduced or saw action between our May and June meetings:

SB 0147 of 2025	Senate Bill	Civil procedure: costs and fees; fee for publication of legal notice; remove sunset for inflation adjustment. Amends sec. 2534 of 1961 PA 236 (MCL 600.2534). Last Action: referred to Committee on Judiciary
SB 0201 of 2025	Senate Bill	Environmental protection: funding; solid waste management fund; establish account to fund material waste reduction, reuse, recycling, and recovery. Amends secs. 11550 & 11582 of 1994 PA 451 (MCL 324.11550 & 324.11582). Last Action: REFERRED TO COMMITTEE ON NATURAL RESOURCES AND AGRICULTURE
SB 0210 of 2025	Senate Bill	Aeronautics: unmanned aircraft systems; operating unmanned aircraft system near critical infrastructure; prohibit. Amends sec. 45a of 1931 PA 328 (MCL 750.45a). Last Action: REFERRED TO COMMITTEE ON CIVIL RIGHTS, JUDICIARY, AND PUBLIC SAFETY
SB 0213 of 2025	Senate Bill	Economic development: other; strategic advisory board; create, and provide for the development of strategic plans. Amends title of 1984 PA 270 (MCL 125.2001 - 125.2094) & adds sec. 9c. TIE BAR WITH: SB 0214'25 Last Action: REFERRED TO COMMITTEE ON ECONOMIC AND COMMUNITY DEVELOPMENT
SB 0214 of 2025	Senate Bill	Economic development: other; strategic advisory board; create, and provide for the development of strategic plans. Amends 1984 PA 270 (MCL 125.2001 - 125.2094) by adding secs. 9a & 9b. TIE BAR WITH: SB 0213'25 Last Action: REFERRED TO COMMITTEE ON ECONOMIC AND COMMUNITY DEVELOPMENT
SB 0247 of 2025	Senate Bill	Environmental protection: hazardous waste; injection well disposal fee; provide for. Amends sec. 62506a of 1994 PA 451 (MCL 324.62506a). Last Action: REFERRED TO COMMITTEE ON ENERGY AND ENVIRONMENT
SB 0251	Senate Bill	Water supply: systems and utilities; water affordability and transparency act; create. Creates new act. TIE BAR WITH: SB 0248'25, SB 0250'25

of 2025		Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
SB 0252 of 2025	Senate Bill	Water supply: systems and utilities; water shutoff protection act; enact. Creates new act. TIE BAR WITH: SB 0248'25, SB 0250'25 Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
SB 0253 of 2025	Senate Bill	Housing: landlord and tenants; right for water and sewer bill to be in tenant's name; provide for. Amends 1972 PA 348 (MCL 554.601 - 554.616) by adding sec. 1f. Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
SB 0254 of 2025	Senate Bill	Public utilities: other; transfer of utility to tenant; provide for. Amends sec. 1 of 1939 PA 178 (MCL 123.161) & adds sec. 4a. TIE BAR WITH: SB 0253'25 Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
SB 0275 of 2025	Senate Bill	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. Last Action: REFERRED TO COMMITTEE ON LOCAL GOVERNMENT
SB 0278 of 2025	Senate Bill	Housing: other; housing and community development fund; modify. Amends secs. 58, 58b & 58c of 1966 PA 346 (MCL 125.1458 et seq.). Last Action: REFERRED TO COMMITTEE ON HOUSING AND HUMAN SERVICES
HB 4027 of 2025	House Bill	Land use: zoning and growth management; provision subjecting zoning authority to part 8 of clean and renewable energy and energy waste reduction act; delete. Amends sec. 205 of 2006 PA 110 (MCL 125.3205). TIE BAR WITH: HB 4028'25 Last Action: transmitted
HB 4028 of 2025	House Bill	Energy: alternative sources; zoning exemptions for large-scale solar, wind, and energy storage facilities; eliminate. Amends title & sec. 13 of 2008 PA 295 (MCL 460.1013) & repeals pt. 8 of 2008 PA 295 (MCL 460.1221 - 460.1232). TIE BAR WITH: HB 4027'25 Last Action: transmitted
HB 4080 of 2025	House Bill	Property tax: special assessments; special assessment deferment program; reinstate. Amends secs. 1 & 2 of 1976 PA 225 (MCL 211.761 & 211.762). TIE BAR WITH: HB 4079'25 Last Action: referred to second reading
HB 4081 of 2025	House Bill	Land use: land division; number of parcels resulting from division; authorize counties and municipalities to increase. Amends sec. 108 of 1967 PA 288 (MCL 560.108). Last Action: REFERRED TO COMMITTEE ON LOCAL GOVERNMENT

<u>HB 4233 of 2025</u>	House Bill	Property: land sales; prohibition for foreign entity to purchase farmland in Michigan; provide for. Amends title & secs. 35 & 36 of 1846 RS 66 (MCL 554.135 & 554.136) & adds sec. 36a. Last Action: referred to second reading
<u>HB 4234 of 2025</u>	House Bill	Property: land sales; sale or transfer of agricultural assets or land to foreign entities; prohibit. Amends title & secs. 35 & 36 of 1846 RS 66 (MCL 554.135 & 554.136) & adds secs. 36a & 36b. Last Action: referred to second reading
<u>HB 4314 of 2025</u>	House Bill	Environmental protection: water pollution; removal of surface debris without a permit; allow. Amends sec. 32512 of 1994 PA 451 (MCL 324.32512). Last Action: bill electronically reproduced 04/16/2025
<u>HB 4352 of 2025</u>	House Bill	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.). Last Action: bill electronically reproduced 04/22/2025
<u>HB 4353 of 2025</u>	House Bill	Water supply: systems; authority as municipal authority; modify. Amends sec. 1 of 2006 PA 563 (MCL 15.391). TIE BAR WITH: HB 4352'25 Last Action: bill electronically reproduced 04/22/2025
<u>HB 4354 of 2025</u>	House Bill	Water supply: systems; authority as municipal authority; modify. Amends sec. 2 of 1965 PA 203 (MCL 28.602). TIE BAR WITH: HB 4352'25 Last Action: bill electronically reproduced 04/22/2025
<u>HB 4355 of 2025</u>	House Bill	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 Last Action: bill electronically reproduced 04/22/2025
<u>HB 4363 of 2025</u>	House Bill	Housing: other; homeowners' energy policy act; repeal. Repeals 2024 PA 68 (MCL 559.301 - 559.317). Last Action: bill electronically reproduced 04/22/2025
<u>HB 4373 of 2025</u>	House Bill	Property tax: exemptions; exemption from state education tax for certain residential property and certain agricultural property; provide for. Amends secs. 2 & 3 of 1993 PA 331 (MCL 211.902 & 211.903). Last Action: bill electronically reproduced 04/22/2025
<u>HB 4374 of 2025</u>	House Bill	Property tax: exemptions; exemption from state education tax for certain residential property and certain agricultural property; provide for. Amends 1893 PA 206 (MCL 211.1 - 211.155) by adding sec. 9q. TIE BAR WITH: HB 4373'25 Last Action: bill electronically reproduced 04/22/2025

HB 4379 of 2025	House Bill	Property tax: senior citizens; property tax exemption for certain senior citizens; provide for. Amends 1893 PA 206 (MCL 211.1. - 211.155) by adding sec. 7yy. TIE BAR WITH: HB 4372'25 Last Action: bill electronically reproduced 04/22/2025
HB 4385 of 2025	House Bill	Natural resources: shorelands; temporary erosion control structures; authorize without permit during high water levels. Amends secs. 32312, 32312a & 32510 of 1994 PA 451 (MCL 324.32312 et seq.) & adds sec. 32510a. Last Action: bill electronically reproduced 04/23/2025
HB 4389 of 2025	House Bill	Environmental protection: hazardous waste; injection well disposal fee; provide for. Amends sec. 62506a of 1994 PA 451 (MCL 324.62506a). Last Action: bill electronically reproduced 04/24/2025
HB 4393 of 2025	House Bill	Environmental protection: hazardous waste; environmental protection; landfills; disposal fees; increase, and limit certain disposal wells and TENORM disposal. Amends secs. 11102, 11103, 11104, 11108, 11109, 11110, 11125, 11132, 11514b, 11525a, 62501 & 62509 of 1994 PA 451 (MCL 324.11102 et seq.); adds secs. 11122, 62508b & 62509d & repeals secs. 11111 & 11112 of 1994 PA 451 (MCL 324.11111 & 324.11112). Last Action: bill electronically reproduced 04/24/2025
HB 4397 of 2025	House Bill	Courts: judges; personal information and physical safety protections for judges, their families, and household members; enhance. Creates new act. Last Action: bill electronically reproduced 04/29/2025
HB 4410 of 2025	House Bill	Property tax: delinquent taxes; definition of abandoned property; modify. Amends sec. 2 of 1999 PA 132 (MCL 211.962). Last Action: bill electronically reproduced 04/30/2025
HB 4411 of 2025	House Bill	Environmental protection: litter; removal of damaged vehicle and debris; provide for cost recovery. Amends sec. 8905a of 1994 PA 451 (MCL 324.8905a). Last Action: bill electronically reproduced 04/30/2025

From: Amy M. Smith <asmith@maglawpllc.com>
Sent: Tuesday, July 22, 2025 12:50 PM
To: Leslee M. Lewis <LLewis@dickinson-wright.com>
Subject: HB 4582 (2025)

Hi Leslee,

I took a look at this bill, and here are my thoughts on areas we could consider addressing as a Section. While it is not aimed at reforming real property law per se, and involves tort law, it has implications for property owners and managers, particularly in the commercial, retail, and mixed-use sectors. As currently drafted, the bill risks adding uncertainty into otherwise settled leasing and ownership structures, so from a property ownership/management perspective, it makes sense for our Section to address any concern.

- 1. Clarify the Definition of “Possessor” to Avoid Imputed Liability for Passive Owners.** The current definition of “possessor” includes individuals or entities “entitled to immediate occupation” of premises (Sec. 2(e)(iii)). This language could inadvertently draw in legal owners who lack physical control or active management responsibilities (such as commercial landlords under triple net leases, institutional investors, or trustees) into litigation over premises conditions. Recommendation: Proposed to revise the definition of “possessor” in Sec. 2(e)(iii) to require both the *legal entitlement* and the *actual exercise or intention to exercise* control. For example: “(iii) A person that is entitled to immediate occupation of the premises and has taken steps to exercise or assert control over the premises.” This minor revision aligns the statutory definition with real-world operational distinctions between ownership and control.

Frankly, this approach cuts against the Michigan Supreme Court’s analysis in *Janini v. London Townhouses Condominium Association*, where the Court emphasized that control, not ownership, is the appropriate basis for determining the duty owed in premises liability claims. In *Janini*, the Court held that a condominium association could be liable precisely because it exercised control and maintenance authority over the area where the plaintiff was injured. The Court rejected a purely ownership-based theory and made clear that duty arises from the entity’s actual ability to manage or maintain the condition in question. The rationale was rooted in operational reality: liability must follow responsibility, and an entity cannot escape liability where it has accepted or undertaken control.

By potentially assigning liability based solely on a right of immediate occupation, the bill would contradict this judicially affirmed principle. It invites plaintiffs to bypass the necessary threshold of actual control and instead target legal owners who are not, in any practical or functional sense, possessors. This runs counter to the Supreme Court’s control-based framework and reintroduces uncertainty into premises liability analysis, especially in complex real estate arrangements involving passive investors, and commercial landlords and tenants. Rather than clarifying the law, the bill in its current form risks undermining the clarity and consistency that *Janini* was meant to restore.

- 2. Include a Safe Harbor for Passive Titleholders.** While Sec. 5(1)(b) disclaims liability for owners who are not also possessors, ambiguity in the possessor definition may still require costly factual discovery to establish whether a party qualifies for that protection. We could recommend adding a rebuttable presumption that an owner is not a possessor unless there is evidence of active control, access, or maintenance responsibility. For example: “An owner shall be presumed not to be a possessor unless the owner has exercised or retained control over maintenance, access, or use

of the premises.” This would promote early resolution of claims against passive owners and reduce burdens on courts and parties by clarifying dispositive thresholds at the motion stage.

3. **Address the Indoor/Outdoor Bifurcation in Premises Conditions.** Sec. 5(2) excludes liability for indoor conditions. This creates a bifurcated legal standard - one standard for outdoor risks under the statute and another (common law) standard for indoor risks. For real property owners and practitioners, this division complicates risk analysis and contract drafting, especially for properties with mixed-use or transitional areas (e.g., vestibules, covered walkways). We could recommend to either (a) remove the indoor/outdoor distinction entirely, or (b) define more clearly what is meant by “inside a building or other structure.” If retaining the distinction, for example, “‘Inside a building or other structure’ does not include transitional or partially enclosed areas such as covered entryways, outdoor vestibules, or open-air common areas.” This would reduce ambiguity and help owners and managers apply the statute more consistently across complex commercial layouts.
4. **Codify a Time-Based Standard for “Constructive Knowledge.”** Sec. 3(b) imposes liability where the possessor “should know” of a condition through ordinary care. This standard introduces fact-heavy questions that frequently defeat summary judgment, driving up litigation cost and duration. We could recommend providing a time-based guidepost for evaluating constructive knowledge to support earlier judicial resolution. For example: “For purposes of determining constructive knowledge, a condition shall be deemed discoverable if it has existed for a sufficient duration that a reasonably diligent inspection conducted at customary intervals would have revealed it.” This language would assist courts in evaluating summary disposition motions and avoid unnecessary disputes over what constitutes “reasonable inspection.”
5. **Clarify Scope of “Open and Obvious” Exceptions to Avoid Overreach.** The exceptions in Sec. 4(2) for “effectively unavoidable” and “unreasonably high risk of severe harm” introduce ambiguous standards that shift the analysis from legal to jury determination in many cases. It would be best to clarify or narrow these terms to improve predictability. For example, define “effectively unavoidable” to mean that the invitee had no reasonable alternative path or ability to avoid the condition in the context of their purpose on the premises. Define “unreasonably high risk of severe harm” to include objective criteria such as the likelihood of injury and typical severity. Clearer definitions would support earlier dispositive rulings and streamline the application of the exceptions across commercial settings.

Hopefully this is helpful, and it is admittedly based on limited knowledge of premises liability law and inspired by Mike’s comments at our meeting!

Thanks!
Amy

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