

# MEMORANDUM

TO: Real Property Law Section Council

FROM: Mike Luberto

DATE: May 12, 2023

SUBJECT: Legislative Committee Report

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1. **Monthly Call.** The ad hoc Legislative Committee met via conference call on May 9, 2023, to discuss recent legislation.
2. **Current status.** David and Mike had a call with Tabitha Zimney from Karoub & Associates on May 2, 2023.
3. **Legislation of interest.**
  - a. **MRTA.** David submitted a proposed amendment to MRTA to fix the EGLE/utilities legislation. Rep. John Fitzgerald is on board to sponsor our bill. Tabitha has heard from the utilities, and they have no opposition to our bill. No word from EGLE about our bill. Our bill (attached) is expected to be introduced soon.

The Legislative Committee recommends that Council pass a resolution in support of this legislation. The attached memo outlines the basis for the support.

MSHDA has identified MRTA as a legislative priority for it. David and Mike have a call with MSHDA on after the Legislative Committee meeting on May 9, 2023. MSHDA's focus is on loans for affordable housing projects. In connection with those transactions, MSHDA records restrictions limiting the use of the property to low-income housing. MSHDA estimates that they have 2,000 properties restricted. The restrictions are intended to last more than 40 years. MSHDA asked that we revise our MRTA bill to make restrictions recorded by MSHDA exempt from MRTA.

In an exchange of emails among Legislative Committee members, the consensus was to not revise our MRTA bill as requested by MSHDA.

- b. **HB 4416 Substitute Bill (Restrictive Covenants) – Now law.** [HB 4416 of 2021](#) Property: other; certain restrictive covenants in deeds and other instruments; prohibit. Creates new act.

This bill passed, without our suggested language pertaining to the capacity of the signer (individual or representative of an association). Senator Sarah Anthony indicated that she would work with us on an amendment. Follow up required.

- c. **TBE bills.** Tabitha has identified 2-3 legislators who would be willing to sponsor these bills. David has sent Tabitha a list of statutes to be amended. Representative Emily Dievendorf is working on drafting the TBE bills.
    - d. **Kessler opinion.** Bottom line is that the purchaser at a mortgage foreclosure sale can wait until the day before the redemption period expires to record the sheriff's deed, and the redemption period will expire

the following day. This will undoubtedly result in problems for sellers, buyers, lenders and title insurers unaware of a recently recorded sheriff's deed.

It is contrary to MLTS 16.28.

Attached are proposed amendments to MCL 600.3232 and MCL 600.3240. The Legislative Committee recommends to Council that the Section seek a sponsor to introduce legislation to amend those two statutes, as reflected in the proposed amendments.

#### 4. **New Proposed Legislation.**

House Bill 4084 (2023)

Friendly Link: <http://legislature.mi.gov/doc.aspx?2023-HB-4084>

Related to exemption for 2021 personal property taxes and application for exemption extension due to Covid.

##### [HB 4331](#)

Fire-Damaged Homes

Increases insurance withholding amount for fire-damaged homes and allows for abandoned funds to be used for repairs.

To amend 1956 PA 218 by amending section 2227 (MCL 500.2227), as amended by 2014 PA 509.

[HB 4350 of 2023](#) (tie bar with HB 4351): A bill to establish a state matching grant program for certain property taxes and special assessments levied by certain municipalities; and to provide for the powers and duties of certain state and local governmental officers and entities.

[HB 4351 of 2023](#): A bill to establish a raise up local grant fund for payment of matching state grants authorized by a certain matching grant program for certain property taxes and special assessments levied by certain municipalities; and to provide for the powers and duties of certain state governmental officers and entities.

[HB 4382 of 2023](#) – Drains: water management districts; chapter 22 of drain code; revise process through determination of sufficiency of petition and proposed boundaries.

[HB 4383 of 2023](#) - Drains: water management districts; chapter 22 of drain code; revise process following determination of sufficiency of petition and proposed boundaries. Amends secs. 559, 560, 561, 562, 563, 564, 565, 569, 570, 571, 572, 573, 574, 576, 577, 578, 580, 581, 582 & 583 of 1956 PA 40 (MCL 280.559 et seq.); adds secs. 561b, 561d, 564b, 569b & repeals secs. 554, 566, 567, 568, 575 & 579 of 1956 PA 40 (MCL 280.554 et seq.). TIE BAR WITH: HB 4382'23

##### [HB 4416](#)

Probate

Provides general amendments to the estates and protected individuals code.

##### [HB 4418](#)

Guardians And Conservators

Modifies amount of transfer allowed.

HB 4428: [2023-HIB-4428.pdf \(mi.gov\)](#) – This creates the “local government public notice act” and isn’t directly related to real estate, but it could be worthwhile to inquire if anyone has any concern about how it could potentially affect any real estate matters. It permits local governments to provide public notice via posting on the website.

[HB 4460 of 2023](#): A bill to provide the rearing of egg-laying hens is a permitted use of property under a zoning ordinance and is not subject to a special land use approval or any other approval under this act if both of the following requirements are met: (a) The property is at least 1/4 acre in size and (b) The number of hens does not exceed 5 hens for every 1/4 5 acre of property size or a total of 25 hens, whichever is less.

[HB 4464 of 2023](#) (tie bar with SB 0153'23): Creates "clean and renewable energy and energy waste reduction act"; establishes community solar facilities.

House Bill 4499 (2023)

Friendly Link: <http://legislature.mi.gov/doc.aspx?2023-HB-4499>

Cannot install antennas for 4G or 5G broadband cellular networks, in a new school building, rooftop or adjacent structure to school building or placed with 1,500 feet of school building.

### [SB 253](#)

Guardians And Conservators

Modifies duties of guardians and conservators.

### [SB 254](#)

Guardians And Conservators

Modifies requirements to be appointed as guardian or conservator.

### [SB 255](#)

Guardians And Conservators

Revises requirements to be appointed as guardian or conservator.

### [SB 256](#)

Guardians And Conservators

Prohibits appointment of an individual who was removed as county public administrator.

### [SB 257](#)

Court Proceedings

Provides availability and review of video recordings of court proceedings.

### [SB 258](#)

Guardians And Conservators

Modifies duties of guardians, conservators, and guardian ad litem.

### [SB 260](#)

Land Sales

Prohibits sale or transfer of real property to foreign entities.

SB 270: [2023-SIB-0270.pdf \(mi.gov\)](#) – This proposes amending MCL 554.135 and 554.136 by adding new sections 36a and 36b and relates to foreign persons/entities from owning certain types of real estate. It states “a foreign person shall not own, purchase, lease, possess, exercise control over, or otherwise acquire agricultural land in this state.” There are exceptions if it’s inherited, or in a collection action when the property was used as a security interest/mortgaged.

SB 271 and 273: These have to do with renewable energy resources. [2023-SIB-0271.pdf \(mi.gov\)](#); [2023-SIB-0273.pdf \(mi.gov\)](#).

SB 277: [2023-SIB-0277.pdf \(mi.gov\)](#) – This addresses farmland and allows it to be used under certain circumstances for solar operations.

SB 0314 (2023)

Friendly Link: <http://legislature.mi.gov/doc.aspx?2023-SB-0314>

Requirement that architect, professional engineer, or design-builder that employs an architect or professional engineer prepare plans for construction or remodeling of school buildings.

## 5. Old Business.

[HB 4023 of 2023](#) Environmental protection: underground storage tanks; placement distance of underground storage tanks from a public water supply system; revise. Amends sec. 21102a of 1994 PA 451 (MCL 324.21102a) & adds sec. 21102b.

[HB 4052 of 2023](#) Property tax: assessments; transfer of ownership of certain real property to certain individuals; exempt from uncapping of taxable value upon transfer. **This exempts from uncapping transfers to a son-in-law or daughter-in-law. Tabitha advised that this is unlikely to go anywhere since the sponsor is out of favor with both caucuses.**

[HB 4062 of 2023](#) HB 4062 amends the landlord-tenant statute to prohibit discrimination based on source of income but is very broadly stated. **This would probably be one worthy of review to see if there are revisions we should suggest to avoid problems. Tabitha reported that this is not on a fast track, and that some amendments are being worked on. Attached is Rebecca's analysis. David offered to review to determine if further changes are warranted.**

[HB 4063 of 2023](#) HB 4063 amends the Elliott-Larsen Civil Rights Act in much simpler terms to prohibit discrimination in real estate transaction based on source of income. It should probably be a model for HB 4062.

[HB 4273 of 2023](#) Requires condemnation notifications to tenants.

[HB 4306 of 2023](#) Property tax: assessments; determination of taxable value; modify. Amends sec. 27a of 1893 PA 206 (MCL 211.27a). This bill would generally change the basis for calculating taxable value to a three-year average or the current year plus the inflation rate, whichever is less.

[HB 4307 of 2023](#) Property tax: assessments; determination of true cash value; modify. Amends sec. 27 of 1893 PA 206 (MCL 211.27). TIE BAR WITH: HB 4306'23. This bill would generally change the basis for calculating assessed value to a three-year average.

[HB 4309](#) Transportation Department Appropriations. Provides appropriations for fiscal year 2023-2024.

[HB 4312](#) Nonprofit Corporations. Authorizes conversion of summer resort associations into nonprofit corporations.

[HB 4313](#) Nonprofit Corporations. Authorizes conversion of summer resort associations into nonprofit corporations.

[HB 4317 of 2023](#) Property tax: payment in lieu of taxes; payment in lieu of taxes for certain renewable energy facilities; provide for. Creates new act. TIE BAR WITH: HB 4318'23

[HB 4318 of 2023](#) Property tax: payment in lieu of taxes; payment in lieu of taxes for renewable energy facilities; provide for. Amends secs. 9 & 9f of 1893 PA 206 (MCL 211.9 & 211.9f). TIE BAR WITH: HB 4317'23

[HB 4327 of 2023](#) adds ethnicity, including specifically Jewish heritage (treated in detail over the course of a couple pages) as a protected class under the Elliot-Larsen civil rights act.

[HB 4329 of 2023](#) 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. This bill would prohibit certain “foreign persons” from acquiring property in Michigan except in certain circumstances and would require foreign persons to divest property holdings. It generally identifies “foreign persons” as persons from countries with “nonmarket” economies or that are state sponsors of terrorism. **Tabitha feels that this is going nowhere.**

[HB 4330 of 2023](#) Property tax: exemptions; property tax exemption for principal residence of certain senior citizens; provide for.

[HB 4332 of 2023](#) Cities: home rule; penalties for certain blight offenders; increase. Amends sec. 4q of 1909 PA 279 (MCL 117.4q). This bill would impose additional penalties for second and third-time blight violators. **According to Tabitha, this could go somewhere, even though the sponsor is an outsider to the Democratic caucus. Possibly poses some due process concerns.**

[SB 0019 of 2023](#) Property tax: tax tribunal; tax tribunal jurisdiction over certain disputes related to the assessment of property for purposes of property taxes; amend. Amends secs. 31 & 35a of 1973 PA 186 (MCL 205.731 & 205.735a). TIE BAR WITH: SB 0020'23

[SB 0020 of 2023](#) Property tax: appeals; process for appealing certain assessment-related disputes as to certain property; amend. Amends sec. 34 of 1893 PA 206 (MCL 211.34) & adds secs. 34f & 34g.

**The Council voted to oppose SB 0019 and SB 0020.**

[SB 0041 of 2023](#) Construction: housing; ordinance prohibiting the use of energy-efficient appliances in new or existing residential buildings; prohibit local units of government from enacting. Amends sec. 13a of 1972 PA 230 (MCL 125.1513a). This would ban governmental preclusion of the use of gas appliances. “...a local unit of government shall not adopt, maintain, or enforce an ordinance that prohibits the use of an appliance that uses gas in a new or existing commercial or residential building or structure.” **Tabitha doesn’t think this bill will move, since Local Government is too busy with other matters.**

[SB 0047 of 2023](#) 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.).

[SB 129](#) Allows certain housing activities. To amend 1996 PA 381 by amending the title and sections 2, 8, 8a, 13, 13b, 13c, 14, 14a, 15, and 16 (MCL 125.2652, 125.2658, 125.2658a, 125.2663, 125.2663b, 125.2663c, 125.2664, 125.2664a, 125.2665, and 125.2666), the title as amended by 2003 PA 259, section 2 as amended by 2022 PA 178, sections 8, 13, 13b, 15, and 16 as amended by 2020 PA 259, section 8a as amended by 2017 PA 46, sections 13c and 14a as amended by 2021 PA 138, and section 14 as amended by 2016 PA 471.

[SB 0130 of 2023](#) Property tax: other; reference to the brownfield redevelopment financing act; update. Amends sec. 7gg of 1893 PA 206 (MCL 211.7gg). TIE BAR WITH: SB 0129'23 Passed the Senate 3-23-23; updates citations to the brownfield redevelopment financing act. The key changes are in the financing act, including allowing MSHDA to approve combined brownfield plans or work plans.

[SB 131](#) Updates reference to the brownfield redevelopment financing act. To amend 1937 PA 94 by amending section 4dd (MCL 205.94dd), as added by 2017 PA 49.

[SB 132](#) Updates reference to the brownfield redevelopment financing act. To amend 1933 PA 167 by amending section 4d (MCL 205.54d), as amended by 2017 PA 48.

[SB 0150 of 2023](#) Property tax: tax tribunal; methods for tax tribunal to hold small claims hearings; expand to include telephonically or by videoconferencing. Provides that residential and small claims division of tax tribunal may conduct hearings telephonically or by videoconferencing.

[SB 0163 of 2023](#) Property tax: exemptions; exemption for the surviving spouse of a disabled veteran; modify. Exempts disabled veteran or his or her surviving spouse from collection of taxes for property used and owned as homestead.

[SB 0164 of 2023](#) Economic development: other; principal shopping district and business improvement zones; modify. Provides that, inter alia, a business improvement zone may provide for assessments subject to various criteria and requirements. Further establishes rules for proportional voting for zone plans.

[SB 0175 of 2023](#) Property Tax Transfers. Modifies penalties for failure to file a property tax transfer affidavit.

[SB 0176 of 2023](#) Disabled Veteran Property Tax. Modifies affidavit filing requirements for disabled veteran exemption.

[SB 225](#) Asbestos Abatement. Requires public contracts for asbestos abatement projects under certain circumstances background investigation, public posting of certain information, and public hearings.

[SB 226](#) Asbestos. Requires annual report on asbestos emissions program for demolition or renovation activity sufficiency of number of inspectors. To amend 1994 PA 451 (MCL 324.101 to 324.90106) by adding section 5519b.

[ADM File No. 2021-10: Proposed Amendment of the Michigan Rules of Evidence](#)

The proposed amendments of the Michigan Rules of Evidence (MRE) reflect the work of the Michigan Rules of Evidence Committee established by Administrative Order No. 2021-8. The Committee was tasked with restyling the MREs in an effort to remain as consistent as possible with the 2011 restyling of the Federal Rules of Evidence. Major reorganization of the rules appears in MRE 803 and MRE 804 where the residual exceptions found in both rules are moved into a new MRE 807, and in MRE 804 where the exception regarding deposition testimony is moved up from subrule (b)(5) to proposed subrule (b)(2). **The Legislative Committee recommends that no action be taken.**