



Report on Public Policy Position

Name of Section:

Real Property Law Section

Contact Person:

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Bill Number:

SB 929 and 930

Date position was adopted:

May 28, 2004

Process used to take the ideological position:

Voting of council members by email.

Number of members in the decision-making body:

11

Number who voted in favor and opposed to the position:

11 in favor; none opposed.

FOR SECTIONS ONLY:

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.

Position:

The Real Property Law Section opposes any modification of the foreclosure statutes which eliminates the right of a redeeming party to pay a neutral party the redemption proceeds in order to effectuate redemption. The Register of Deeds of the county in which the sheriff's deed of the foreclosed is recorded has historically functioned as such neutral party. The foreclosure sale purchaser is not a neutral party. The Section opposes SB 929 and 930 as introduced.

The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:

<http://www.michiganlegislature.org/mileg.asp?page=getObject&objName=2004-SB-0929>

<http://www.michiganlegislature.org/mileg.asp?page=getObject&objName=2004-SB-0930>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

Arguments for the position:

The proposed bills seek to eliminate the county Register of Deeds office from being a payee of redemption funds following a foreclosure sale. This proposal will require a redeeming party to find and pay the foreclosure sale purchaser in order to effect redemption. Many decisions regarding redemption are made at the last minute. Many of the foreclosure sale purchasers are difficult to locate and when significant equity is involved, they have little incentive to be found or to otherwise cooperate. The register of deeds or another neutral party needs to remain involved in the process in order to ensure the fundamental fairness of the system.

Parties who seek to redeem real estate from a foreclosure sale need to have a difficult time

Arguments against the position (if any):

N/A

If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.

None

Fiscal implications of the recommended policy to the State Bar of Michigan:

None

FOR LEGISLATIVE ISSUES ONLY:

This position falls within the following Keller-permissible category:

- The regulation and discipline of attorneys**
- ✓ **The improvement of the functioning of the courts**
- ✓ **The availability of legal services to society**
- The regulation of attorney trust accounts**
- The regulation of the legal profession, including the education, the ethics, the competence, and the integrity of the profession.**

Keller- permissible explanation:

The proposed bills seek to eliminate the county Register of Deeds office from being a payee of redemption funds following a foreclosure sale. This proposal will require a redeeming party to find and pay the foreclosure sale purchaser in order to effect redemption. Many decisions regarding redemption are made at the last minute. Many of the foreclosure sale purchasers are difficult to locate and when significant equity is involved, these parties have little incentive to be found or to otherwise cooperate. The register of deeds or another neutral party needs to remain involved in the process in order to ensure the fundamental fairness of the system.