



STATE BAR OF MICHIGAN

PUBLIC POLICY POSITION

Bill Number:

[HB 4509](#) (VanSingel) Civil procedure; evictions; limited liability companies; allow members and others with personal knowledge to represent in certain situations. Amends 1961 PA 236 (MCL [600.101](#) - [600.9947](#)) by adding sec. 5707.

Date position was adopted:

June 14, 2019

Board of Commissioners Vote:

Unanimous

Explanation of the position, including any recommended amendments:

The State Bar of Michigan opposes HB 4509.

- Individuals may choose to form a limited liability corporation (LLC) to obtain the benefits of that business structure. However, if an individual chooses to create a LLC, then that distinct corporate entity must be represented by an attorney in landlord-tenant summary proceedings. If litigants want to avoid employing an attorney, they have the choice not to incorporate.
- The bill would create a significant exception to Michigan’s long-standing rule in eviction proceedings requiring corporations to be represented by a licensed attorney.
- Sanctioning non-attorneys to represent corporate entities in litigation would result in a general lowering of expertise in both substantive and procedural aspects of landlord-tenant law, with less accountability for unethical practices.
- The proposed language in the bill is vague in several of the key considerations and would be prone to cause confusion or misinterpretation. Specifically:
 - Subsection (1) provides that in order for a member to represent the LLC in a summary proceedings action, the member must have “direct and personal knowledge of the facts alleged in the complaint.” It is unclear who makes the determination that the member has met the requirements of the statute.
 - Under subsection (3), “an individual may not represent the party in a hearing in the summary proceedings unless, before the hearing, a designated employee of the court reviews the file and determines that the verified statement required by subsection (2) (B) has been filed with the court.” This requirement is confusing because the designated employee does not verify that the required statement is accurate, only that the statement is present.



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- Pursuant to subsection (4), “a party seeking to proceed under this section has the burden of proving that it qualifies to do so.” Again, it is unclear to whom must the party prove that they qualify? A court clerk at the time of filing? The Court at the commencement of the initial hearing? Or, only when the issue is raised by the opposing party or counsel?