

Report on Public Policy Position

Name of committee:

Civil Procedure & Courts Committee

Contact person:

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Bill Number:

[HB 4998](#) (Heise) Civil procedure; evictions; court procedures; make miscellaneous revisions. Amends secs. 5732 & 5739 of [1961 PA 236](#) (MCL [600.5732](#) & [600.5739](#)) & adds sec. 5736.

Date position was adopted:

November 5, 2011

Process used to take the ideological position:

Position adopted after discussion and vote at a scheduled meeting.

Number of members in the decision-making body:

20

Number who voted in favor and opposed to the position:

14 Voted for position

0 Voted against position

1 Abstained from vote

5 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

The Committee opposes the proposed bill.

As to Section 5732: The Committee generally favors deference to local courts to manage their own dockets, subject to oversight by the Supreme Court. The mandate of this provision would overrule local autonomy.

As to Section 5736: Oppose because the subject-matter of the legislation is procedural and should be left to regulation by the Michigan Supreme Court via the Michigan Court Rules (which already addresses the topic, see MCR 4.201(D)).

As to Section 5739(2): Oppose because this is already the subject of a Court Rule, MCR 4.201(G)(1)(b) and should be regulated as a procedural matter, not by statute. Moreover, given the summary nature of “summary” proceedings, there are due process concerns with adjudicating future rent claims, including how applicable defenses (including mitigation) will be addressed.

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://legislature.mi.gov/doc.aspx?2011-HB-4998>

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 competency, and the integrity of the profession.

Keller-permissible explanation:

HB 4998 concerns the functioning of the court system, in the bill’s requirement that court employees not limit the number of summary proceedings in a given day or time. This moves docket management from the judiciary branch to the legislative branch of Michigan’s government.