

Report on Public Policy Position**Name of section:**

Real Property Law Section

Contact person:

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E-mail:kshierk@mnds-pll.com**Bill Number:**[SB 0791](#) (Van Woerkom) Property; other; uniform real property electronic recording act; create. Creates new act.**Date position was adopted:**

November 4, 2009

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:

18

Number who voted in favor and opposed to the position:

15 Voted for position

0 Voted against position

0 Abstained from vote

3 Did not vote

Position:

Oppose and Amend

Explanation of the position, including any recommended amendments:

The Real Property Law Section opposes the current draft of SB 791 until the following concerns are satisfactorily addressed:

1. There should be an acknowledgment that in the absence of standards enacted by the Electronic Recording Commission, a register may effectuate e-recording by virtue of the authority already granted to registers under the federal electronic signatures act ("ENSIGN"), 15 USC 7001, et. seq., and the Uniform Electronic Transactions Act ("UETA"), MCL 450.831, et. seq., and furthermore, that practices of counties which have already initiated e-recording programs, such as Oakland and Macomb, are valid and do not require additional compliance measures for recording events which precede the effective date of any new standards promulgated under URPERA.

2. SB 791 provides that three of the individuals who serve on the Electronic Recording Commission must be comprised of individuals who are engaged in the land title profession, however, there is no definition of the term “land title profession”. The Section proposes that at least two of the three persons in this category must be individuals who are licensed by the State Bar of Michigan, and are either members of the Council of the Real Property Law Section of the State Bar of Michigan or nominated by the Council to serve on the Committee.

3. Finally, consideration should be given to increasing the size of the Commission temporarily during the first three (3) years of its existence to twelve (12) members, with two of the additional members being the registers of Oakland and Macomb Counties, where e-recording is already occurring, and the other two additional members being individuals who are engaged in the land title profession. Most of the hard work of the Committee will occur in these early years while standards are being created and tested. The originally contemplated eight member Commission should function well in administering the maintenance of the standards after the standards are created.

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?2009-SB-0791>