

**Public Policy Position  
SB 809**

The Real Property Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 3,702 members. The Real Property Law Section is not the State Bar of Michigan and the position expressed herein is that of the Real Property Law Section only and not the State Bar of Michigan. To date, the State Bar does not have a position on this item.

The Real Property Law Section has a public policy decision-making body with 17 members. On November 20, 2024, the Section adopted its position after a discussion and vote at a scheduled meeting. 14 members voted in favor of the Section's position, 0 members voted against this position, 0 members abstained, 3 members did not vote.

**Oppose with Recommended Amendments****Explanation:**

SB 809, cited as the "uniform premarital and marital agreements act," includes an exemption for bona fide purchasers for value as follows: "This act does not affect adversely the interests of a bona fide purchaser for value to the extent this act applies to a waiver of a marital right or obligation in a transfer or conveyance of property by a spouse to a third party" (p. 4, lines 9-12).

As drafted, this language is problematic and would adversely affect the efficient administration of real estate law because under Michigan law, "marital right or obligation" has no clear or even apparent meaning. We no longer have dower. Further, tenancy by the entirety is not a "marital right or obligation" and cannot really be waived. A purchaser could not innocently take property from one spouse anyway, as the title would make clear that both must join in the transfer. To fit Michigan law and read in a way that would be clear to apply, we recommend that the exemption be revised to read as follows:

"This act does not affect the interests of a bona fide purchaser for value in a transfer or conveyance of property by either or both spouses to a third party."

RPLS opposes SB 809 unless the above revisions are made.

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