

CIVIL PROCEDURE & COURTS COMMITTEE
Respectfully submits the following position on:

*

HB 4463

*

The Civil Procedure & Courts Committee is comprised of members appointed by the President of the State Bar of Michigan.

The position expressed is that of the Civil Procedure & Courts Committee only and is not an official position of the State Bar of Michigan, nor does it necessarily reflect the views of all members of the State Bar of Michigan.

The State Bar position on this matter is to oppose the bill.

The total membership of the Civil Procedure & Courts Committee is 23.

The position was adopted after an electronic discussion and vote. The number of members in the decision-making body is 23. The number who voted in favor to this position was 18. The number who voted opposed to this position was 2.

Report on Public Policy Position

Name of Committee:

Civil Procedure & Courts Committee

Contact person:

Karen H. Safran

E-Mail:

ksafran@carsonfischer.com

Bill Number:

[HB 4463](#) 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:

April 10, 2017

Process used to take the ideological position:

Position adopted after an electronic discussion and vote.

Number of members in the decision-making body:

23

Number who voted in favor and opposed to the position:

18 Voted for position

2 Voted against position

0 Abstained from vote

3 Did not vote (absent)

Position:

Oppose

Explanation of the position, including any recommended amendments:

The Committee voted to oppose HB 4463 as it encourages the unauthorized practice of law in its allowance of certain one- or two-member limited liability corporations to appear before the court without an attorney. Committee members saw no rational basis for creating an exception to the rule that only those authorized to practice law may represent someone else in a legal proceeding for certain one- and two-member LLCs in landlord-tenant summary proceedings. Further, the Committee was concerned that the bill allowed property managers or other agents to represent LLCs in these proceedings, as the property manager or agent may not be privy to arrangements agreed to by the landlord and tenant prior to the proceeding; this is particularly concerning in tenancies involving federally subsidized housing. Landlords are not required to utilize the LLC form to conduct business. The choice to receive the benefits offered by an LLC cannot be separated from the constraints of an LLC's operation, including the requirement of legal representation in court proceedings.

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?2017-HB-4463>

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:

This bill affects the functioning of the court in its allowance of certain LLCs to appear before a court without an attorney.