

**Public Policy Position  
HB 6370**

The Real Property Law Section is a voluntary membership section of the State Bar of Michigan, comprised of 3,649 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 October 7, 2022 the Section adopted its position after a discussion at a meeting, with a vote by written means following the meeting. 15 members voted in favor of the Section's position, 0 members voted against this position, 0 members abstained, 2 members did not vote.

**Oppose with Recommended Amendments**

**Explanation:**

The Real Property Law Section understands the intent behind House Bill 6370. However, Section 4(e) as drafted is overly broad and would exempt from the Marketable Record Title Act any recorded instrument that governs the use, maintenance, or occupation of property, instead of being limited to a narrow set of environmental restrictive covenants, conservation easements, and environmental land or resource use restrictions as we believe was intended. This would effectively eviscerate the Act and directly contradict the intent of the notice provisions with respect to ordinary deed restrictions. For that reason, the Section opposes House Bill 6370 unless the following minor but necessary clarifying revisions are made thereto:

5           (e) Bar or extinguish any of the following land or resource  
6 use restriction, including any of the following restrictions:  
7           (i) ~~An environmental A~~ restrictive covenant or other recorded  
8 instrument if that restricts the use of property for the protection  
9 of health or safety from the environmental condition of the  
10 property, including, but not limited to, a restrictive covenant or  
11 other recorded instrument that specifically cites the state or  
12 federal environmental statute that is the basis for the  
13 restriction, including any of the following:

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