

REAL PROPERTY LAW SECTION
Respectfully submits the following position on:

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HB 5057

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The Real Property Law Section is not the State Bar of Michigan itself, but rather a Section which members of the State Bar choose voluntarily to join, based on common professional interest.

The position expressed is that of the Real Property Law Section only and is not the position of the State Bar of Michigan.

To date, the State Bar does not have a position on this matter.

The total membership of the Real Property Law Section is 4,149.

The position was adopted after discussion and vote at a scheduled meeting. The number of members in the decision-making body is 18. The number who voted in favor to this position was 11. The number who voted opposed to this position was 0. The number who abstained was 0.

Report on Public Policy Position

Name of section:

Real Property Law Section

Contact person:

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Bill Number:

[HB 5057](#) (Johnson) Property; other; adverse possession of property; eliminate. Amends secs. 5801, 5821 & 5867 of [1961 PA 236](#) (MCL [600.5801](#) et seq.).

Date position was adopted:

September 18, 2014

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:

11 Voted for position

0 Voted against position

0 Abstained from vote

7 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

HB 5057 (Johnson) The bill would eliminate the doctrines of adverse possession and acquiescence, which for hundreds of years have been effective methods for resolving boundary disputes and conflicting claims to the ownership of real property. These proposals are in large part due to the popular misperception that the doctrine is used primarily to assist property owners in acquiring their neighbor's property through stealth. Proponents of such legislation fail to recognize that the doctrine is often a useful and necessary tool in resolving legitimate property boundary issues. As described in detail in the Real Property Review (Anderson, Adverse Possession – The Case Against a Legislative Fix, Spring 2008, p 15), the authors examined the 100 or so adverse possession and acquiescence cases in the Michigan Court of Appeals in the years immediately preceding the article. This examination revealed first, that the Court of Appeals rarely disturbs a finding of a trial court in these types of cases

and secondly, that in the vast majority of these cases, trial courts have applied the elastic rules of both adverse possession and acquiescence to achieve at least an arguably fair result.

Adverse possession claims are just one of a number of types of claims where justice can and must be administered according to concepts best applied by courts to a particular set of fact. Simply abolishing the legal means for property owners to resolve those disputes will not make the issues go away.

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?2013-HB-5057>