



Report on Public Policy Position

Name of section:

Real Property Law

Contact Person:

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Bill Number:

SB 62 (Gilbert) Property; conveyances; termination of tenancy by the entireties; allow in cases of spousal abandonment. Amends secs. 1 & 2 of 1927 PA 210 (MCL 557.101 & 557.102).

Date position was adopted:

April 18, 2007

Process used to take the ideological position:

Vote of the Council of the Section

Number of members in the decision-making body:

16

Number who voted in favor and opposed to the position:

12 Voted for position

0 Voted against position

0 Abstained from vote

4 Did not vote

Position:

Oppose

Explanation of the position, including any recommended amendments:

The Section opposes SB 0062 for several reasons, including the following:

The bill would authorize a tenancy by the entireties to be terminated by means of a conveyance by only one of the tenants following a hearing and court order that the tenancy by the entireties be terminated, where the court, by a preponderance of the evidence, has determined that a spouse has been willfully absent from, deserted, or willfully neglected or refused to provide support for the other spouse. The Section objects to the listed reason for termination of a spouse's real estate interest;

There are many reasons justifying willful absence from a spouse;

Since the penalty here is so severe, the justifications for termination set forth in the bill should be described in greater detail;

Also, additional safeguards should be set forth in the hearing process.

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?2007-SB-0062>

RECOMMEND STATE BAR ACTION ON THIS ISSUE:

List any arguments against the position:

See "Position"

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:

Not provided.