



Report on Public Policy Position

Name of section:

Real Property Law

Contact Person:

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Bill Number:

HB 4249 (Sheltrown) Property; other; adverse possession of certain property; prohibit if property taxes are paid by title owner. Amends sec. 5867 of 1961 PA 236 (MCL 600.5867) & adds sec. 5867a.

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 HB 4249 for several reasons including the following:

The bill does not require the person against whom a claim for adverse possession is being asserted to be the title holder of the property at issue. As such, the bill creates the potential for injustice by basing title on taxpayer status, rather than principles of title and longstanding doctrines of real estate law;

The bill does not address the issues of "tacking" and other issues inherent in resolving a dispute involving a claim of adverse possession;

The bill would, in certain circumstances, negate the doctrine of acquiescence, which for well over 100 years has been an effective method for resolving boundary disputes, including boundary disputes involving claims of adverse possession;

The bill would work an injustice under circumstances where for tax parcel inventory purposes, land has been assigned by a local assessor to a taxpayer who did not otherwise have, or previously claim, any right of ownership to the parcel.

The bill creates the potential for injustice by negating, in some circumstances, the careful analysis on a case by case basis that is needed to resolve claims of title involving adverse possession.

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-HB-4249>

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.