



KELLEY CAWTHORNE

ATTORNEYS &
GOVERNMENT
RELATIONS
COUNSELORS

*Frank J. Kelley
Dennis O. Cawthorne
Patrick H. McCollough
James G. Cavanagh
Steven D. Weyhing
David Gregory*

GOVERNMENT
RELATIONS
COUNSELORS

*Rob Elhenicky
Dave Ladd
Melissa Yutzey Bourke*

PROPERTY MANAGEMENT ASSOCIATION OF MICHIGAN: LEGISLATIVE COMMITTEE REPORT

June 2007

I. PRIORITY ISSUES

- A. AT-RISK PROPERTY PROTECTION ACT/INSPECTION REFORM.**
UPDATE: Rep. Green (R-Wyoming) introduced HB 4958 which was referred to House Intergovernmental, Urban and Regional Affairs. We anticipate introduction in the Senate during the last week of June. We need additional co-sponsors for this bill.
- B. DOMESTIC VIOLENCE TERMINATION.** PMAM participated in a meeting with Sen. Garcia's office as well as the Domestic Violence Coalition and the Michigan Poverty Law Program on 4/19/07. Draft 2 was circulated to interested committee members. Kelley Cawthorne provided response to sponsor's office in person on 5/18/07. Also discussed other issues. Sponsor is preparing a Draft 3 and another meeting is likely. Sponsor's goal is to have a public act in October 2007. Our goal is work toward an acceptable bill (based on the best aspects of others states) and leverage for consideration on other issues. **UPDATE:** None.
- C. LICENSURE.** A meeting between various industry players and the Michigan Association of Realtors ("MAR") took place in February. MAR to respond with potential changes to draft legislation. As of last meeting MAR has not responded.
- D. SBT REPLACEMENT CLOSE AT HAND.** As you know, Michigan's Single Business Tax ("SBT"), expires at the end of 2007. Legislative leaders and the governor recently announced a "conceptual agreement" for replacement of the tax which combines a corporate profit income tax with a "gross receipts" element and significant personal property relief. There is a widely held belief that taxes for limited liability companies and partnerships will increase under this model. As most major business groups have signed off, we anticipate final passage relatively soon.

II. OTHER ISSUES FOR DISCUSSION & MONITORING

- A. **CHANGE ADDRESS NOTICE. HB 4394** introduced by **Rep. Steil (R-Cascade)** and referred to the Regulatory Reform Committee would require a tenant to use registered or certified mail/return receipt requested. In May we received calls from RPOA's consultant suggesting that bill will come up for a committee hearing in the near future.
- B. **DUMPSTERS/CITY OF DETROIT**
- C. **EVICTION REFORM.** Two (2) bill drafts received back from Senator Garcia's office. **UPDATE:** Will discuss introduction this week along with introduction of inspection bill.
- D. **LANDLORD-TENANT/NOTICE REGARDING REPAIRS/SB 379.** **Sen. Gretchen Whitmer (D-East Lansing)** introduced a bill which would require that a rental agreement provide that a tenant has a right to a 24 hour notice for non-emergency repairs or maintenance. Referred to Local, State and Urban Affairs Committee.
- E. **LEAD CONTAMINATION NOTICE.** Sen. Martha Scott (D-Detroit) introduced SB 509 (referred to Judiciary). The bill would amend the Truth in Renting Act to require a landlord to provide notice to a tenant within 10 days of receiving notice that a rental unit rests on soil that is contaminated with lead. See Attachment C for bill text.
- F. **LEASING RESTRICTIONS/ANN ARBOR ORDINANCE.** Kelley Cawthorne is reviewing legal opinion issued by outside firm to WAAA for possible attorney general opinion request. **UPDATE:** To be provided verbally at meeting.
- G. **LOW INCOME HOUSING ISSUES.** **Sen. Ron Jelinek (R-Three Oaks)** has introduced **SB 80** which would exempt a transfer of "eligible nonprofit housing property from charitable nonprofit housing organization to a low-income person" from the definition of a "transfer" under the General Property Tax Act. **Rep. Joel Sheltroun (D-West Branch)** has introduced **HB 4338** dealing with withholding taxes for entities with regulatory agreements with HUD and MSHDA.
- H. **INCLUSIONARY ZONING BILLS.**
- I. **DEATH OF TENANT/PROBATE AMENDMENT**
- J. **SOURCE OF INCOME.**
- K. **VACANCY LOSS REFORM. UPDATE:** A new commercial property specific tax act (HB 4375/Condino) previously passed the House and remains in Senate Finance Committee. The Senate version of the bill was

discharged (SB 312/Jacobs) from committee and remains on the Senate general orders calendar. *See* Attachment B.

L. NON-ATTORNEY REPRESENTATION

M. FUND-RAISING/PAC. KC participated in conference call on 4/20/07 to discuss PAC building ideas.

N. LEGISLATOR/PUBLIC OFFICIAL-OF-THE YEAR AWARD

ATTACHMENT A

HOUSE BILL No. 4958

June 20, 2007, Introduced by Rep. Green and referred to the
Committee on Intergovernmental, Urban and Regional Affairs.

A bill to amend 1917 PA 167, entitled

"Housing law of Michigan,"

by amending sections 1 and 126 (MCL 125.401 and 125.526), section

126 as amended by 2000 PA 479.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known as the housing law of Michigan

and ~~all provisions thereof~~ shall apply to every city and organized

village in ~~the~~ THIS state which, by the last regular or special

federal census, had a population of 100,000 or more, and to every

city or village as its population shall reach 100,000 thereafter

and also to that territory immediately adjacent and contiguous to

the boundaries of such a city or village and extending for a radial

distance of 2-1/2 miles beyond their boundaries in all directions.

This act shall also apply to any city and organized village in this

state which, as determined by the last regular or special federal census, has or shall hereafter attain a population of 10,000 or more. ~~However, the provisions of this~~ THIS act relating to private dwellings and 2-family dwellings ~~as hereinafter defined shall~~ DOES not apply to any city or organized village lying outside the 2-1/2 mile radius and having a population of less than 100,000 unless the legislative body of the city or village by resolution, passed by a majority vote of the members elect of the legislative body, adopt the provisions. In the case of charter townships and townships the provisions of this act relating to private dwellings and 2-family dwellings may be applied to those areas by ordinance of the respective township board adopting the provisions. This act ~~shall~~

~~apply~~ APPLIES to all dwellings within the classes defined in the following sections, except that in sections where specific reference is made to 1 or more specific classes of dwellings, those provisions shall apply only to those classes to which specific reference is made. All other provisions ~~which~~ THAT relate to dwellings shall apply to all classes of dwellings.

Sec. 126. (1) The enforcing agency shall inspect ~~on a~~ ~~periodic basis,~~ multiple dwellings and rooming houses regulated by this act IN ACCORDANCE WITH THIS ACT. ~~Except as provided in~~ ~~subsection (2), the period between inspections shall not be longer~~ ~~than 2 years. All other dwellings regulated by this act may be~~ inspected at reasonable intervals. MULTIPLE DWELLING AND ROOMING

HOUSES SUBJECT TO INSPECTION BY THE UNITED STATES
DEPARTMENT OF

HOUSING AND URBAN DEVELOPMENT OR BY THE STATE
HOUSING DEVELOPMENT

AUTHORITY SHALL NOT BE INSPECTED BY AN ENFORCING
AGENCY UNLESS THE

INSPECTION IS COMPLAINT-BASED UNDER SUBSECTION (3).

~~—(2) A local governmental unit may provide by ordinance for a maximum period between inspections of a multiple dwelling or rooming house that is not longer than 3 years, if the most recent inspection of the premises found no violations of the act.~~

~~—(3) An inspection shall be conducted in the manner best calculated to secure compliance with the act and appropriate to the needs of the community, including, but not limited to, on 1 or more of the following bases:~~

~~—(a) An area basis, such that all the regulated premises in a predetermined geographical area will be inspected simultaneously, or within a short period of time.~~

~~—(b) A complaint basis, such that complaints of violations will~~

~~be inspected within a reasonable time.~~

~~—(c) A recurrent violation basis, such that premises that are~~

~~found to have a high incidence of recurrent or uncorrected~~

~~violations will be inspected more frequently.~~

(2) A LOCAL GOVERNMENTAL UNIT PERFORMING
INSPECTIONS SHALL

ISSUE A 5-YEAR CERTIFICATE OF OCCUPANCY TO A
RENTAL UNIT WITHIN A

MULTIPLE DWELLING IF THE OWNER OR AUTHORIZED
MANAGER OF THE UNIT

REQUESTS A COMPLIANCE INSPECTION AT LEAST 6
MONTHS PRIOR TO THE

EXPIRATION OF A CURRENT CERTIFICATE OF OCCUPANCY
AND THE UNIT IS

BROUGHT INTO COMPLIANCE WITH THIS ACT BEFORE THE EXPIRATION OF A

CURRENT CERTIFICATE OF OCCUPANCY. A RENTAL UNIT THAT SATISFIES THIS

SUBSECTION SHALL NOT BE SUBJECT TO FURTHER INSPECTION DURING ITS

SUBSEQUENT 5-YEAR CERTIFICATE OF OCCUPANCY UNLESS IT IS A

COMPLAINT-BASED INSPECTION PERFORMED UNDER SUBSECTION (3).

(3) INSPECTIONS SHALL BE CONDUCTED MORE
FREQUENTLY THAN 1 TIME

EVERY 5 YEARS IF THE INSPECTIONS ARE MADE IN
RESPONSE TO A

COMPLAINT MADE TO THE ENFORCING AGENCY BY
SOMEONE OTHER THAN AN

EMPLOYEE OR AGENT OF THE ENFORCING AGENCY. THE
ENFORCING AGENCY

SHALL PROVIDE A COPY OF THE COMPLAINT ON WHICH
THE INSPECTION IS

BASED TO THE PROPERTY OWNER OR MANAGER WITHIN 10
DAYS OF THE

PROPERTY OWNER'S OR MANAGER'S WRITTEN REQUEST
TO THE ENFORCING

AGENCY. IF THE ENFORCING AGENCY DETERMINES THAT
A CONDITION THAT

NEEDS TO BE REMEDIED REQUIRES A REINSPECTION
UNDER THIS SUBSECTION,

THE ENFORCING AGENCY SHALL NOT CONDUCT THE REINSPECTION LESS THAN

30 DAYS AFTER THE FIRST COMPLAINT-BASED INSPECTION.

(4) An inspection shall be carried out by the enforcing agency, or by the enforcing agency and representatives of other agencies that form a team to undertake an inspection under this and other applicable acts.

(5) Except as provided in subsection (7), an inspector, or team of inspectors, shall request and receive permission to enter before entering a leasehold regulated by this act at reasonable hours to undertake an inspection. In the case of an emergency, as defined under rules promulgated by the enforcing agency, or upon presentment of a warrant, the inspector or team of inspectors may

enter at any time.

(6) Except in an emergency, before entering a leasehold

regulated by this act, the owner of the leasehold shall request and

obtain permission to enter the leasehold. In the case of an

emergency, including, but not limited to, fire, flood, or other

threat of serious injury or death, the owner may enter at any time.

(7) The enforcing agency may require the owner of a leasehold

to do 1 or more of the following:

(a) Provide the enforcing agency access to the leasehold if

the lease provides the owner a right of entry.

(b) Provide access to areas other than a leasehold or areas

open to public view, or both.

(c) Notify a tenant of the enforcing agency's request to

inspect a leasehold, make a good faith effort to obtain permission

for an inspection, and arrange for the inspection. If a tenant

vacates a leasehold after the enforcing agency has requested to

inspect that leasehold, an owner of the leasehold shall notify the

enforcing agency of that fact within 10 days after the leasehold is

vacated.

(d) Provide access to the leasehold if a tenant of that

leasehold has made a complaint to the enforcing agency.

(8) A local governmental unit may adopt an ordinance to

implement subsection (7).

(9) For multiple lessees in a leasehold, notifying at least 1

lessee and requesting and obtaining the permission of at least 1

lessee satisfies subsections (5) and (7).

(10) Neither the enforcing agency nor the owner may

discriminate against an occupant on the basis of whether the

occupant requests, permits, or refuses entry to the leasehold.

(11) The enforcing agency shall not discriminate against an

owner who has met the requirements of subsection (7) but has been

unable to obtain the permission of the occupant, based on the

owner's inability to obtain that permission.

(12) The enforcing agency may establish and charge a reasonable fee for inspections conducted under this act. The fee shall not exceed the actual, reasonable cost of providing the inspection for which the fee is charged. AN ENFORCING AGENCY SHALL

AT LEAST ANNUALLY PUBLISH AN ITEMIZED COMPILATION OF ALL ACTUAL

COSTS INCURRED IN PERFORMING INSPECTIONS, INCLUDING, BUT NOT

LIMITED TO, COSTS INCURRED IN EMPLOYING THIRD-PARTY CONTRACTORS TO

PERFORM INSPECTIONS, DURING THE PRECEDING CALENDAR YEAR AND ALL

FEES RECEIVED FOR PERFORMING INSPECTIONS. THE REPORT MAY BE

PUBLISHED ELECTRONICALLY.

(13) If a complaint identifies a dwelling or rooming house regulated under this act in which a child is residing, the dwelling or rooming house shall be inspected prior to inspection of any nonemergency complaint.

(14) As used in this section:

(a) "Child" means an individual under 18 years of age.

(b) "Leasehold" means a private dwelling or separately occupied apartment, suite, or group of rooms in a 2-family dwelling or in a multiple dwelling if the private dwelling or separately occupied apartment, suite, or group of rooms is leased to the occupant under the terms of either an oral or written lease.

ATTACHMENT B**COMMERCIAL RENTAL PROPERTY TAX****House Bills 4375 and 4376 as introduced****Sponsor: Rep. Paul Condino****Committee: Tax Policy****First Analysis (4-15-07)**

BRIEF SUMMARY: The bills attempt to address an issue stemming from the Michigan Supreme Court's 2002 decision in *WPW Acquisition v. City of Troy* concerning the role of "occupancy additions" in determining the taxable value of commercial property. House Bill 4375 would create a new act imposing a specific tax on commercial rental property that allows for increases and decreases in taxable value based on changes in occupancy rates. House Bill 4376 would exempt commercial rental property that is subject to the new specific tax from general ad valorem property taxes.

FISCAL IMPACT: These bills would increase School Aid Fund (SAF) sources by an estimated \$5 million (\$1.25 million increase in State education tax revenue and a decrease in expenditures of \$3.75 million). In addition, property tax revenue for local units of government would increase by an estimated \$5.8 million.

THE APPARENT PROBLEM:

Under the State Constitution, as amended by Proposal A of 1994, year-to-year increases in the taxable value of a parcel of property are generally limited to five percent or the rate of inflation, whichever is lower. However, the value of property may be adjusted for certain additions and losses, irrespective of the assessment cap. Under the General Property Tax Act, the term "losses" includes, among other things, an adjustment in value because of a decrease in a property's occupancy rate. Similarly, the term "additions" includes an increase in the value attributable to an increase in the property's occupancy rate if a loss was previously allowed because of a decrease in occupancy rate or if the value of new construction had been reduced because of a below-market occupancy rate.

In *WPW Acquisition v. City of Troy* (466 Mich 117), the state Supreme Court held that the additional value attributable to an increase in a property's occupancy rate was not consistent with Proposal A, and therefore was unconstitutional. At the time Proposal A was approved by the voters, the terms "additions" and "losses," as defined in the General Property Tax Act, did not encompass any increase or decrease in value attributable to a change in occupancy rate. The current definitions, as applied to tax years after 1994, were added to the General Property Tax Act with the enactment of Public Act 415 of 1994, an act implementing

Proposal A. The court noted that if the legislature were free to classify increases in value as "additions," it would undermine one of the intended purposes of Proposal A – to limit property taxes.^[1] Because the court did not address the issue of the treating a decrease in occupancy rate as a "loss," the result is that under current law, a property's taxable value can be reduced because of a decrease in occupancy rate, but cannot increase when the occupancy rate subsequently increases.^[2]

To correct the problem created by the *WPW* decision, legislation has been introduced to remove commercial rental property from general ad valorem property taxes and impose a separate, specific tax that considers both additions and losses attributable to a change in occupancy rate when determining the property's taxable value.

THE CONTENT OF THE BILL:

Together, the bills would put in place a new method of taxing commercial rental property by exempting such property from general ad valorem property taxes under the General Property Tax Act, and levying a new specific on that property instead.

House Bill 4375

Under House Bill 4375, local assessors each year would be required to determine the value and adjusted taxable value of a parcel of commercial rental property by December 31st. Property would be assessed at 50 percent of its true cash value. In general, the adjusted taxable value of the property would be the lesser of the following:

- Current state equalized value (SEV)
- Adjusted taxable value in previous years, adjusted for any losses and any occupancy loss, multiplied by five percent or the rate of inflation, and adjusted for any additions and any occupancy addition.

For 2008, a property's adjusted taxable value in the immediately preceding year would be the sum of (1) the taxable value the property would have had in 2008 if the property had been subject to general ad valorem property taxes and (2) any addition that would have been attributable to an increase in occupancy rate occurring after May 14, 2002 and before the bill's effective date, notwithstanding the state Supreme Court's *WPW* decision.

Beginning in 2008, if a property's taxable value is adjusted to reflect an occupancy loss, the property owner would have to file, by January 15th, a copy of the rent roll or a sworn statement of the square footage of occupancy as of the immediately preceding December 31st. After 2008, when a property is sold, its adjusted taxable value would "pop-up" to the state equalized value, and would then be subject to

the assessment cap until the next transfer of ownership. Assessments could be appealed in the same manner as provided under the General Property Tax Act.

The tax rate would be the number of mills assessed in the local tax collecting unit as if that property were subject to the General Property Tax Act, and the base would be the adjusted taxable value. The tax would be payable in the same manner as taxes collected under the General Property Tax Act. Property located within a renaissance zone would be exempt from the specific tax, except for special assessments, debt millages, school enhancement millages, and school building sinking fund millages.

Tax revenue would be disbursed by the tax collecting unit to other taxing units in the same manner as provided under the General Property Tax Act. Unpaid taxes would be subject to foreclosure, forfeiture, and sale in the same manner as provided under the General Property Tax Act.

House Bill 4376

The bill would exempt commercial rental property from the General Property Tax Act if the owner previously claimed an occupancy loss and filed an affidavit with the local tax collecting unit claiming an exemption. The affidavit would have to be filed by (1) the December 31 of the year immediately after the year in which the bill becomes effective for property currently in existence; (2) the December 31 of the year in which new property is constructed; or (3) the December 31 of the year immediately following a year in which a transfer of ownership occurred, if an exemption was not previously claimed. Property owners would be required to file a form rescinding an exemption within 90 days from when property is no longer considered commercial rental property. Failure to file a rescission would be a penalty of \$5 a day, up to \$200, for each day after the 90-day period. The penalty would be deposited in the School Aid Fund.

Assessors could deny an exemption claim for the current year and the preceding three years. If an exemption is denied, the tax roll would be amended to reflect the denial and a corrected tax roll would be issued. Taxes levied would be delinquent on March 1st of the year immediately after the year in which the corrected tax bill is issued. If the property is transferred to a bona fide purchaser before a corrected bill is issued, the tax would not be a lien against the property and would not be billed to the purchaser, but would be assessed against the previous owner who claimed the exemption.

In addition, the bill would amend current law concerning occupancy losses and additions (MCL 211.34d) to specify that an occupancy loss may be taken prior to May 14, 2002 (the date of the WPW decision) and that an occupancy addition may be taken prior to December 31, 2007.

BACKGROUND INFORMATION:

The bills are part of the tax restructuring proposal that accompanied Governor Granholm's FY 2008 Executive Budget Recommendation. Other components of that proposal include a replacement for the Single Business Tax, a 2% excise tax on services, allowing for a trade-in allowance for the sales tax paid on new motor vehicles, increasing the tax on cigarettes and other tobacco products, increasing the liquor markup, decoupling the estate tax from the federal estate tax, increasing penalties for failing to pay a tax or file a return, and eliminating a number of corporate tax "loopholes."

In testimony before the House Committee on Tax Policy, the Department of Treasury provided by the following graphs illustrating the effect of the *WPW* decision on taxable value resulting from increases and decreases in occupancy rate and affect of the bill.

WPW Acquisition v. City of Troy

In striking down the occupancy addition, the court stated: *If what the amendment [Proposal A] had done was empower the Legislature, at its will, to define an increase in the value of property (such as an increase due to increased occupancy) to be classified as an "addition," then the property tax limiting thrust of §3 would be, or could soon be if the Legislature desired it, thwarted. To adopt Troy's position regarding legislative power to amend the meaning of terms understood at the time of ratification, would be to assume the drafters and ratifiers of this amendment desired to place a convenient sabotaging clause within this tax limitation amendment that could be triggered whenever the Legislature chose. Such a skewed view of the intent, to say nothing of the capabilities, of the drafters and ratifiers, should be rejected. Moreover, to adopt such a mode of interpretation would, when applied in the future to other constitutional language, hollow out the people's ability to place limits on legislative power. In short, to recognize such an expansive legislative power to redefine constitutional terms is inconsistent with the constitution's supremacy over statutes...Against this background, we see no principled way to determine the meaning of "additions" as used in §3 except by considering it as a term of art that must be construed in conformity with the meaning of "additions" as used in the General Property Tax Act at the time that Proposal A was adopted.*

Prior Legislation

The first legislative attempt to "fix" the WPW decision came with the introduction of House Bill 6017 of the 2003-2004 legislative session. That bill, introduced by then-Representative (and current state Senator) John Pappageorge, would have simply eliminated the occupancy loss and addition provisions from the General Property Tax Act.

The administration first proposed "fixing" the *WPW* decision in 2005, as part of its proposed Michigan Jobs and Investment Act, its first attempt to revise the state's business tax code in light of the impending repeal of the Single Business Tax. (See House Bills 4476 and 4477 and Senate Bills 295 and 296 of the 2005-06 legislative session.)^[3] House Bill 4477, introduced by Rep. Andy Meisner, and Senate Bill 295, introduced by Sen. Gilda Jacobs, would have eliminated the "occupancy loss" and "occupancy addition provisions" for taxes levied after December 31, 2001 (i.e. before the *WPW* decision). Commercial rental property owners generally don't like the eliminating the occupancy loss provisions because, from their standpoint, the occupancy loss provision is an attractive feature of the tax code because it lowers the taxable value to better reflect the property's true cash (market) value.

A second attempt at fixing the *WPW* decision in the prior legislative session was included as part of the ongoing negotiations between the governor and the legislature to restructure the state's tax system and find a suitable replacement for the Single Business Tax. (Thrown into the mix was a package of legislation securitizing the state's portion of tobacco settlement revenue.)^[4] House Bills 5096 and 5097, introduced by Rep. Fulton Sheen, like the two bills this session, would have exempted commercial rental property from general ad valorem property taxes and subjected that property to a separate specific tax allowing for changes in taxable value attributable to both an occupancy loss and an occupancy addition.

House Bill 4375 is identical to the Senate-passed version of House Bill 5096 of last session. (See Senate substitute S-2.) The enrolled version of the bill, substitute H-5, which was ultimately vetoed by the governor, was prospective in scope, while last year's Senate substitute was retroactive, as is House Bill 4375. That is to say, the enrolled bill used as its starting taxable value, the value as determined within the limits of *WPW* (occupancy losses without occupancy additions). This effectively provided a permanent tax cut for that property until ownership of that property was later transferred because the property must first take an occupancy loss before there is an occupancy addition. The current bill and last year's Senate-passed substitute, by contrast, use as their starting taxable value, the value the property would otherwise have were it subject to the General Property Tax Act, plus any occupancy addition since the *WPW* decision. This, in a sense, operates as if the *WPW* decision never occurred.

ARGUMENTS:

For:

As a result of the *WPW* decision the taxable value of commercial rental property can be adjusted downward to reflect a decrease in occupancy rate, but cannot be readjusted upward, above the assessment cap, when the occupancy rate later increases. The *WPW* decision throws off the delicate balance between what were intended to be offsetting provisions allowing for occupancy losses and additions. Although the court struck down the occupancy addition, it did not address the

occupancy loss provision. Fairness in the tax code mandates a return to the system in place prior to the *WPW* decision, by allowing for both an occupancy loss and a corresponding occupancy addition.

Against:

The bills set a dangerous precedent by the legislature to get around the limits of Proposal A and the state constitution by creating a specific tax that is, in all other respects, a general ad valorem property tax. If the legislature can enact a tax on commercial rental property that is outside the bounds of the constitutional limit on assessments, what prevents it from enacting similar changes on, for instance, residential property?

Against:

Critics argue that the bills should not allow the retroactive capture of occupancy additions that should have been taken, but weren't, as a result of the *WPW* decision. This unfairly burdens property owners who have followed the law in good faith and could face large tax increases as the taxable value is readjusted upward.

POSITIONS:

The Department of Treasury supports the bills. (3-27-07)

The Michigan Municipal League supports the bills. (3-27-07)

The Michigan Townships Association supports the bills. (3-27-07)

The Michigan Association of Counties supports the bills. (3-27-07)

The City of Southfield supports the bills. (3-27-07)

The City of Grand Rapids supports the bills. (3-27-07)

The Michigan Education Association supports the bills. (3-27-07)

The Michigan Association of School Boards supports the bills. (3-27-07)

The American Federation of Teachers – Michigan supports the bills. (3-27-07)

The Michigan Small and Rural Schools Association supports the bills. (3-27-07)

The Oakland Schools supports the bills. (3-27-07)

The Ottawa Area Intermediate School District supports the bills. (3-27-07)

The Muskegon Area Intermediate School District supports the bills. (3-27-07)

The Kalamazoo Regional Educational Service Agency supports the bills. (3-27-07)

The Michigan Chamber of Commerce opposes the bills. (3-27-07)

The Michigan Association of Homebuilders opposes the bills. (3-27-07)

The Building Owners and Managers Association opposes the bills. (3-27-07)

Legislative Analyst:

Mark Wolf

Fiscal Analysts:

Rebecca Ross

Jim

Stansell

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

[1] In October 2006, the state Court of Appeals adopted the Supreme Court's *WPW* rationale in *Toll Northville, LTD and Biltmore Wineman, LLC v. Northville Township* (Docket No. 259021) and struck down a provision in the General Property Tax Act, MCL 211.34d(1)(b)(viii), that provided that the term "additions" also included the value of "public services"— i.e. water, sewer, primary access road, natural gas service, electrical service, telephone service, sidewalks, and street lighting. That decision is on appeal to the Michigan Supreme Court.

[2] A challenge to the occupancy loss provisions of the General Property Tax Act involving the City of Southfield is currently pending before the Oakland County Circuit Court.

[3] At the time, Enacting Section 1 of 2002 PA 532 repealed the Single Business Tax Act at the end of 2009. House Bill 4476 would have repealed this enacting section and extended the SBT Act. Subsequent to that, the legislature enacted, without the governor's signature, 2006 PA 325, an initiated law repealing the SBT Act at the end of 2007.

[4] The tax bills were SB 633 and HBs 4342, 4972, 4973, 4980, 5095-5098, and 5106-5108. The securitization bills were SBs 298-359, 521, 533, and 664-667, and HBs 5047, 5048, 5109, 5215, and 5216. The governor vetoed HB 5096 and HB 5107 and signed the other tax bills and all of the securitization bills. Because of an

issue with the way the tax bills were tie-barred to each other, the governor's veto of HB 5096 and HB 5107, allowed the remaining tax bills to become enacted into law, but did not allow them to take effect.

Comments regarding SB 103 (S-2) Draft

Page 1

- Line 1. Reference should require a landlord to allow a release of rent upon certain conditions; delete reference to rental agreements. We propose a requiring a notice in a lease that “Tenant may have special statutory rights to seek a release of rental obligations and a termination of his or her right to occupancy prior to the end of a lease term under MCL _____ .
- Line 4. Change “immediate area” to “common areas.”

Page 2

- Line 10. Option 2. Should also include (as do other states) that triggering event is notice AND vacation of the premises/dwelling. Don't want to create an unintended loophole of no obligation for rent but still remaining in premises.
- Going back to page 1, could reference termination of right to occupy the premises in addition to release of rental obligation language.
- Line 14. Oppose 60 days. Rent should be paid as it comes due under lease.
- Line 17. Add language stating that “Nothing in this section shall affect a tenant's liability for delinquent rent or other sums owed to the landlord before the release of rental obligation under this section” (VIRTUALLY IDENTICAL TO TEXAS STATUTE).
- Line 25. Not sure we understand the more than 14 days provision for PPOs. How and to whom must the “verifiable and confirmable threat” be proven?

Page 3

- Line 5. Need a definition of a domestic violence service provider. Oppose 60 days. Propose 14.
- Line 10. Oppose police reports. In the alternative could support a police report upon which a prosecutor has filed criminal charges.

Related Issues

- Introduction, sponsorship and Senate passage of inspection reform bill is number one priority. New House double blue back being prepared w/ a substantial change in approach.
- Violence Eviction as a companion bill.
- Eviction Reform Draft

