

REAL PROPERTY LAW SECTION  
Respectfully submits the following position on:

\*

The Report of the Task Force on the  
Role of the State Bar of Michigan

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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.

The State Bar of Michigan has submitted a position on this matter.

The total membership of the Real Property Law Section is 4,163.

The position was adopted after an electronic discussion and vote. The number of members in the decision-making body is 17. The number who voted in favor to this position was 16. The number who voted opposed to this position was 1.



## Report on Public Policy Position

**Name of Section:**

Real Property Law Section

**Contact person:**

David Pierson

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**Regarding:**

The Report of the Task Force on the Role of the State Bar of Michigan

**Date position was adopted:**

August 4, 2014

**Process used to take the ideological position:**

Position adopted after an electronic discussion and vote.

**Number of members in the decision-making body:**

17

**Number who voted in favor and opposed to the position:**

16 Voted for position

1 Voted against position

0 Abstained from vote

0 Did not vote

**Position:**

Oppose and Amend

## **Real Property Law Section Comments on Section Advocacy Recommendations of the Report of the Task Force on the Role of the State Bar of Michigan**

**Background:** The Task Force appointed by the Michigan Supreme Court to address the role of the State Bar of Michigan delivered its report to the Court on June 3. Although neither the charge to the Task Force nor any testimony at the hearing specifically mentioned advocacy by the sections, pages 13 and 14 of the report propose changes to section advocacy because of the risk that section advocacy is mistaken for advocacy by the State Bar. Among other measures, the report recommends requiring sections to create a separate entity for advocacy.

A committee of interested section leaders drafted a proposed response that might serve as a consensus response to the recommendations regarding section advocacy, entitled Recommendations of the State Bar Sections – Task Force Review Committee. An officer of the Real Property Law Section participated in the steering committee discussions and made a number of comments and suggestions, none of which were included in the Recommendations. The Real Property Law Section previously adopted a position opposing SB 743, the bill that would eliminate the mandatory state bar.

**Position of the Real Property Law Section:** The Real Property Law Section agrees with the general principles stated in the Recommendations of the State Bar Sections – Task Force Review Committee, but does not otherwise adopt those recommendations. Instead, the Real Property Law Section offers the following comments and recommendations in response to those parts of the Report of the Task Force on the Role of the State Bar of Michigan that address advocacy by the sections.

The issue of confusion between the State Bar and the sections' advocacy is legitimate, at least in the sense that legislators and their staff regularly express a mistaken belief that the State Bar, not a section, has taken a position on a bill.

The positions taken by a section are most often communicated by a letter or statement from the section and on the section's webpage. Looking at both makes clear that the confusion is driven in large measure by the State Bar's insistence on branding, with its multicolor logo, specified letterhead, and rigid standards for size and color of type. Sections are barred from using their own logo or other identifying marks. Attached are examples, including several that bear directly on the issue of confusion. Rather than change the rules on advocacy, a more effective solution, as a practical matter, would be to clearly and prominently use the name of the section to identify the position adopted by the section.

When a Section adopts a position on legislation, it is posted on the section's page on the State Bar website. The formatting of the pages, as shown in the attached example, relegates the section's identification to very small type on the page. When the section writes to inform a legislator or anyone else of the section's position, the mandated letterhead must be used. Again, the letterhead prominently displays the State Bar logo and name. The only contact information is the State Bar address, phone numbers, and website.

On the website itself, the search and index pages similarly feature the State Bar and in small type mention the section. This would seem to be the very place to prominently show that a section had taken a position and even to note as well that the State Bar has not.

The attached program from the Young Lawyers Section annual Summit in Lansing is a good example of how this is the result of marketing, not in any way related to advocacy. The YLS seeks financial support from other sections. Each of these sections contribute several hundred dollars to become a sponsor and receive tickets to an event, with billing on the back of the program (with the object, in part, of recruiting young lawyers who may be interested in joining the section). A copy of the program cover is attached; it conforms to the State Bar logo requirements. Without looking closely, the reader could think that the State Bar had sponsored the event five times.

All of these marks of the State Bar's participation make the disclaimer required by the State Bar bylaws and the Supreme Court Administrative Rule, like many disclaimers required by law, largely ineffective. A more effective practical solution would be to allow sections to advocate in their own name, allowing them to continue to represent the thousands of voluntary members of the sections. Requiring sections to adopt a fictional name for advocacy purposes takes away rights that the sections have long had. Nothing suggests that the sections themselves have abused their rights or used them unfairly. Given that history, before adopting new rules or new restrictions on the sections, it seems sensible to try practical solutions addressing the name, typeface, logo, and assorted other marks by which the sections can identify themselves as not being synonymous with the State Bar.

## **The Real Property Law Section**

a voluntary association of members of the State Bar of Michigan

## PRISONS & CORRECTIONS SECTION

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July 28, 2014

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To Whom It May Concern:

The Prisons and Corrections Section (PCS) of the State Bar comments as follows on the *Section Advocacy Recommendations* contained in the *Report of the Task Force on the Role of the State Bar of Michigan*:

- **Recommendation 2:** The PCS strongly disagrees with the recommendation that sections must create a separate entity if they wish to engage in legislative or executive branch advocacy.
  - First, being associated with the State Bar provides support for the authenticity and knowledge of PCS.
  - Second, requiring a name change is deceptive to the public—the Task Force is asking PCS to present themselves to the public in an inaccurate way.
  - Third, because the recommendation only applies to legislative and executive branch advocacy, there will be confusion among the public as to who exactly is speaking. There will also likely be confusion among section members about which name to use when, including for PCS sponsored educational events or conferences.
  - Fourth, the goal of the recommendation is to provide a clear distinction between the State Bar and section advocacy. However, this recommendation will likely not solve the problem, since legislators will almost certainly learn the makeup of the newly-formed entity and realize it is a State Bar group.
  - PCS is willing to work with the State Bar and the Task Force to ensure current branding is even clearer as to the separation between sections and the State Bar.
- **Recommendations 4, 5, 7:** PCS supports and understands that State Bar resources should not be used to subsidize the non-*Keller* activities of sections. This is a logical recommendation to address issues identified by the Task Force.
- **Recommendation 6:** For the reasons identified regarding recommendation 2, PCS does not support the recommendation that certain information on section websites be limited to only section members. PCS provides information to the general public that is important, in order to keep the public informed about current happenings in the criminal justice arena. Furthermore, this recommendation would greatly reduce PCS efforts to expand its membership.

In sum, these recommendations are overall of great concern to PCS. Some of our members believe that if the recommendations are adopted as proposed, it would be preferable to move to a voluntary bar in Michigan. Most attorneys join sections to effectuate positive change and provide information to the public about specific areas of the law. These recommendations would likely greatly reduce attorney interest and participation in these vibrant sections.

Thank you for your consideration,

Jessica Zimbelman  
Chair, Prisons and Corrections Section

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# Public Policy Bill Position Detail

Session: **2013-2014**

Bill: [HB5083](#)

Sponsor: **Rutledge**

Title: **The General Property Tax Act**

Property tax; delinquent taxes; definition of public property; provide for, and allow certain property to be transferred to a land bank under certain circumstances. Amends sec. 78m of 1893 PA206 (MCL 211.78m).

Positions:

**Real Property Law Section**

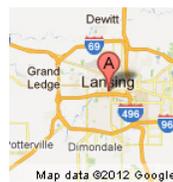
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