

December 12, 2012

Dear House Judiciary Member,

Attached please find a document regarding SB 1092, an amendment to the judgment lien act. This document clears up any questions raised about the issue, and we believe rebuts testimony offered by the sole group in opposition.

It is also helpful to note that this group never engaged in dialogue or offered any indication that they opposed the issue until the second house committee; nearly eight months after introduction, and seven months after it passed from the Senate Judiciary Committee. Hopefully the attached document will help to clarify the issue and the mistruths that were espoused by this group at the 11th hour.

If you still have questions or concerns, please contact either myself, or Michael H.R. Buckles. Our contact information is included below. Thank you and we appreciate your consideration of this issue and all the positive benefits it will deliver for businesses judgment creditors in Michigan.

Sincerely,

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The Truth about SB 1092

Testimony today from a Register of Deeds at the House Judiciary Committee misstated the effect of 1092. This fact sheet lists the myths and truths re this bill.

Myth: the bill would allow foreclosure of a judgment lien against a judgment debtor.

Truth: The judgment lien law forbids foreclosure against a judgment debtor. The amendment would only permit foreclosure against unscrupulous buyers, title companies and realtors who know about the recorded judgment lien, but disburse funds to the judgment debtor without paying the judgment creditor. This remedy would never be used because the law would have "teeth" which title companies could not ignore.

Myth: Other states do not permit foreclosure of judgment liens.

Truth: Each of the 45 states that have judgment liens allow foreclosure, even against the judgment debtor. Michigan is unique it that it forbids foreclosure, but requires the judgment debtor to pay only when property is sold and proceeds are available. This amendment would eliminate the loophole that allows title companies to close a deal and not pay the judgment creditor.

Myth: Buyers of property with judgment liens would not know they are being foreclosed upon.

Truth: Buyers know about judgment liens at the time of the closing when they purchase the property. They know this because a title search is done before sales and the search indicates judgment liens. With the new law, buyers would demand, and title companies would be compelled to insure, that available proceeds from the closing are used to pay the judgment lien.

Myth: Service men and women could be foreclosed upon without notice.

Truth: The Service members Civil Relief Act, a Federal Law, expressly prohibits enforcement of any legal remedy to collect debt from any active military personnel.

Myth: the proposed law would allow foreclosure of judgment lien against an unsuspecting purchaser with no notice:

Truth: Buyers of property are informed of any judgment lien by virtue of a title search by their title company. All parties would know of the existence of a judgment lien before closing.