Dower Rights are Abolished in Michigan

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On December 28, 2016, Governor Rick Snyder signed into law Public Act 378 of 2016 (the "Act"), which abolishes all statutory or common law rights of dower in Michigan, except in the case of a widow whose husband dies before the Act's effective date.

Before the Act went into effect, Michigan was one of the last states to recognize dower rights. Among the reasons that the legislature acted now, after other unsuccessful attempts to repeal dower rights, were complications related to the application of dower rights in the context of same-sex marriage.

Dower, which is a wife's interest in her husband's real property upon his death, is a centuries old legal concept. It provides a widow with a portion of her deceased husband's real property, usually one-third, that the widow is legally entitled to use during her lifetime to support herself and their children. A widow can choose to take dower rather than what she would get from a will.

A dower interest is "inchoate" in that it arises in a married woman while her husband is alive but doesn't vest until he dies. Therefore, dower rights can complicate or impede certain real estate transactions, such as when a married man seeks to transfer an interest he owns in real property via a deed that his wife does not also execute. The wife's name doesn't have to be on the deed for her inchoate dower interest to cloud title to the real property in this circumstance.

In sum, effective April 6, 2017, transfers of real estate in Michigan are no longer subject to a potential dower claim, with the exception of property owned by men who die before the effective date.

Do you have questions regarding transfers of real estate in Michigan? Contact attorney Scott Chernich with any questions you may have at 517.371.8133 or schernich@fosterswift.com.

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