



ELIMINATION OF DOWER IN MICHIGAN

On January 6, 2017, Michigan Governor Rick Snyder signed into law a package of bills eliminating statutory and common law dower rights. The law takes effect on April 7, 2017, with an exception made for dower rights elected by a woman whose husband died before the law's effective date.

BACKGROUND

The concept of a dower interest in real property dates back centuries to a time when women could not own property or amass personal wealth. In Michigan, dower rights were the traditional rights a widow had to elect on her husband's death, to claim for her life possession and use, a one-third interest in any real estate titled in her late husband's name.

Prior to the new law, Michigan was one of the few states to continue to recognize dower and was the only state that still granted dower rights exclusively to women. The Supreme Court's 2015 decision in *Obergefell v. Hodges* held that all states must recognize same-sex marriages; complications related to the application of dower rights in the context of same-sex marriage may have been the impetus for the Michigan legislature to pass the package of bills to abolish dower rights.

WHAT THE ELIMINATION OF DOWER MEANS FOR MICHIGAN RESIDENTS

- » Spouses that hold property in their name alone will be free to transfer the property without the signature of the other spouse.
- » Both spouses must still join in the execution of a "non-purchase money mortgage" (refinance) on their "marital homestead" (principal residence) regardless of who is in title.
- » Documents presented for recording must still state the marital status of all male grantors.
- » Judgments of divorce and separate maintenance no longer include a provision in lieu of dower.

Generally speaking, the new laws will simplify and provide more certainty in Michigan real estate transactions. If you have any questions, please contact our office.

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