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House Bill 4509 (as passed by the House)
Sponsor: Representative Scott VanSingel
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 1-29-20

CONTENT

The bill would add Section 5707 to Chapter 57 (Summary Proceedings to Recover Possession of Premises) of the Revised Judicature Act to do the following:

- **Allow a member of a limited liability company (LLC) to represent the entity in a summary proceeding if the LLC had only one member who was an individual, or had two members who were individuals married to each other, and other conditions were met.**
- **Specify that Section 5707 would apply to an LLC with two members who were married to each other only if both members signed a verified statement authorizing the representation and filed it with the court.**
- **Specify that a party seeing to proceed under Section 5707 would have the burden of proving that it was qualified to do so.**
- **Specify that representation under Section 5707 would not constitute unauthorized practice of law.**

Chapter 57 governs the use of summary proceedings, a civil action to recover possession of premises and to obtain certain ancillary relief. Under proposed Section 5707, if the complaint in a summary proceeding requested only the recovery of possession of the premises or both the recovery of possession and a money judgment, not including taxable costs, in amount that was less than the applicable limit of the small claims division under Section 8401, and if a party to the proceeding were an LLC that met certain criteria, the party could be represented by a member if he or she had direct and personal knowledge of the facts alleged in the complaint.

(Under Section 8401 of the Act, the jurisdiction of the small claims division of the district court is limited to cases for the recovery of money in which the amount claimed does not exceed a specified limit, which presently is \$6,000. The limit will increase to \$6,500 on January 1, 2021, and to \$7,000 on January 1, 2024.)

Section 5707 would apply only if the LLC met one of the following:

- It had only one member and the member was an individual.
- It had only two members who were individuals married to each other, if both members had signed a verified statement authorizing the representation and the original signed copy of the statement had been filed with the court in the summary proceeding.

The latter provision would not apply if there were an action for divorce or separate maintenance pending between the members, or if a judgment for separate maintenance as to the members had been entered.

If a party to a summary proceeding were a two-member LLC described above, an individual could not represent the party in a hearing in the summary proceeding unless, before the hearing, a designated employee of the court reviewed the file and determined that the verified statement had been filed with the court.

A party seeking to proceed under Section 5707 would have the burden of proving that it was qualified to do so.

Also, representation under Section 5707 would not be a violation of Section 916 of the Act (which prohibits a person from practicing law or engaging in the law business unless he or she is licensed and authorized to practice law in Michigan).

Proposed MCL 600.5707

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill could have a negative fiscal impact on State and local government through increased court time and litigation. The requirement for an LLC to secure representation for itself through a licensed attorney may deter the filing of some actions that otherwise could be brought in court. Under the bill, certain LLCs could represent themselves without incurring those costs, which could increase the number of actions filed. Also, courts could see an increase in filings made in error by LLCs that are not represented by a licensed attorney.

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.