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May 17, 2019

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The Hon William Seitz

14th Floor 77 S. High

Columbus, Ohio 43215

Re: Proposed Dower Repeal

Attachment: Proposed spousal protection statute

Dear

 I am writing concerning the proposed dower repeal bill. I am opposed unless it is replaced with a “Spousal Protection Bill”

 I practiced law in Defiance, Oh. For 47 years. About once a year someone would ask how they could sell or mortgage a property without their spouses signature. My answer was always No, because of the dower law. I have been involved it two court cases where the dower law protected an innocent spouse.

1. A man wanted to buy a new boat. His bank wouldn’t loan him the money without a second mortgage on his home. His wife refused to sign. He got his girlfriend to sign his wife’s name.
2. A woman “ran up the plastic”. She wanted a home equity loan to pay off the cards. She didn’t want her husband to know. She got her brother to sign the husbands name.

In both cases the courts protected the innocent spouses share of the home.

In a California case a husband sold property and obtained mortgages on other properties. He moved more that 7 million offshore. Then he followed. The Calif courts ruled that his now destitute spouse couldn’t do anything except have him found in contempt IF he returned to Calif.

 The banking and real estate lawyers have denied that the dower law has any effect on divorce or family matters. One asserted that NO spouse would get a loan without their spouses knowledge. Several have stated “it is too damm much trouble to get the spouses” signature.

 I noted a trend in real estate purchases. The banks tell prospective borrowers that the loan is more likely to go thru if only the high income spouse is on the application. Then they want a “single owner deed”. This makes it easier for the banks to foreclose, but deprives the spouse of notice of the foreclosure. It also deprives a spouse of the benefits of a “joint and survivor” deed.

 Several bank lawyers have told me that the proposed spousal protection law would require the banks to do to much research to determine if the property is a marital home. This IS NOT TRUE. It would only require they ask if a person was married. This is what they do now. It would NOT require any “extra” effort.

 Recent trends in our country have stated that they believe that by 2050 75% of Americans will be self employed. In order to protect spouses and family incomes in the event of divorce I drafted the proposed “Spousal Protection Law”. I think we need to repeal the dower law and replace it with a law that clearly states what the purpose of the law is and that we are trying to protect spouses from being victimized by a mad soon to be ex. Many DR lawyers, especially, those dealing with lower income families fore see an increase of defrauded spouses applying for public assistance if you repeal the dower law and don’t provide an alternate.

 A number of states have repealed similar dower provisions. In most cases the real estate lawyers promised protections for spouses. It is my understanding that only about one half have and it is limited to the marital home. I think this is too limited, given the projected increase in self employment.

 Thank you for your consideration of my comments.

 Sincerely,

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James E. Hitchcock