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If you have questions regarding the information in this alert or would like to receive additional information regarding our national real estate practice, you may contact any of these attorneys by e-mail (address is their first initial and last name @honigman.com):

Joel S. Adelman
313.465.7300

Maurice S. Binkow
313.465.7324

Jonathan D. Block
313.465.7624

Jonathan R. Borenstein
248.566.8412

Richard J. Burstein
248.566.8430

Gregory J. DeMars
313.465.7356

Thomas W. Forster II
248.566.8440 - 734.418.4266

Margaret E. Greene
313.465.7376

Carl W. Herstein
313.465.7440

Alan M. Hurvitz
248.566.8454

David J. Jacob
248.566.8446

Martin L. Katz
248.566.8456

Joel M. Krugel
248.566.8458

J. Patrick Lennon
269.337.7712

Denise J. Lewis
313.465.7464

David G. London
248.566.8464

Howard N. Luckoff
248.566.8466

Lawrence D. McLaughlin
313.465.7474 - 248.566.8592

Mitchell R. Meisner
313.465.7478

Karen R. Pifer
248.566.8472

J. Adam Rothstein
248.566.8478

Alan J. Salle
248.566.8426

Laurence J. Schiff
248.566.8484

Sheldon P. Winkelman
313.465.7606

Commercial Broker Lien Act Affects Brokers, Property Owners, Landlords and Tenants

On October 5, 2010, Governor Granholm signed into law Public Act 201, the Commercial Broker Lien Act. The Act allows licensed real estate brokers the right to file a claim of lien against property involved in a sale or lease transaction for a commission due, if the commission is owed pursuant to a written commission agreement.

Most commercial real estate transactions are covered by the Act, but real estate containing four or fewer residential units (*i.e.* single family homes, small apartment complexes or duplexes), vacant land zoned single family, and certain residential condominium complexes are exempt.

To be effective, the selling broker's lien must be recorded prior to the conveyance of the real estate, but the buyer's broker may record its lien after the sale. A lien in a lease transaction must be filed within sixty days following the execution of the lease, although if the broker was given 10 days prior notice of lease signing, the lien must be filed prior to lease execution. The Act has provisions for establishment of an escrow account to hold funds until commission disputes can be resolved.

The potential of a lien creates title complexities in both sale and lease transactions. Property owners, landlords and tenants will all need to make sure that appropriate steps are taken to discharge potential liens. Furthermore, there are a number of technical steps that brokers must follow to correctly file and enforce a lien.

For more information, please contact any of the Honigman attorneys listed in this Alert.

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