

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 612**

A bill to amend 1978 PA 59, entitled
"Condominium act,"
by amending sections 3, 6, 10, 40, 45, 47a, 52, 58, 67, 69, 73,
90, 106, 108, 111, 112, 113, 132, and 135 (MCL 559.103, 559.106,
559.110, 559.140, 559.145, 559.147a, 559.152, 559.158, 559.167,
559.169, 559.173, 559.190, 559.206, 559.208, 559.211, 559.212,
559.213, 559.232, and 559.235), sections 3, 10, 52, 67, 73, 112,
and 135 as amended by 1982 PA 538, section 6 as amended by 1983
PA 113, section 47a as amended by 1998 PA 36, and section 90 as
amended by 1988 PA 147, and by adding sections 72b, 90a, and
176.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) "Administrator" means the department of
2 ~~commerce~~ CONSUMER AND INDUSTRY SERVICES or an authorized
3 designee.

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1 (2) "AFFILIATE OF DEVELOPER" MEANS ANY PERSON WHO CONTROLS,
2 IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH A DEVELOPER. A
3 PERSON IS CONTROLLED BY ANOTHER PERSON IF THE PERSON IS A GENERAL
4 PARTNER, OFFICER, MEMBER, DIRECTOR, OR EMPLOYEE OF THE PERSON,
5 DIRECTLY OR INDIRECTLY, INDIVIDUALLY OR WITH 1 OR MORE PERSONS OR
6 SUBSIDIARIES OWNS, CONTROLS, OR HOLDS POWER TO VOTE MORE THAN 20%
7 OF THE PERSON, CONTROLS IN ANY MANNER THE ELECTION OF A MAJORITY
8 OF THE DIRECTORS OF THE PERSON, OR HAS CONTRIBUTED MORE THAN 20%
9 OF THE CAPITAL OF THE PERSON.

10 (3) ~~(2)~~ "Arbitration association" means the American arbi-
11 tration association or its successor.

12 (4) ~~(3)~~ "Association of co-owners" means the person desig-
13 nated in the condominium documents to administer the condominium
14 project.

15 (5) ~~(4)~~ "Business condominium unit" means a condominium
16 unit within any condominium project, which unit has a sales price
17 of more than \$250,000.00 and is offered, used, or intended to be
18 used for other than residential or recreational purposes.

19 (6) ~~(5)~~ "Business day" means a day of the year excluding a
20 Saturday, Sunday, or legal holiday.

21 (7) ~~(6)~~ "Common elements" means the portions of the condo-
22 minium project other than the condominium units.

23 (8) ~~(7)~~ "Condominium buyer's handbook" means the informa-
24 tional pamphlet created by the administrator.

25 (9) ~~(8)~~ "Condominium bylaws" or "bylaws" means the
26 required set of bylaws for the condominium project attached to
27 the master deed.

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1 (10) ~~(9)~~ "Condominium documents" means the master deed,
2 recorded pursuant to this act, and any other instrument referred
3 to in the master deed or bylaws which affects the rights and
4 obligations of a co-owner in the condominium.

5 Sec. 6. (1) "Co-owner" means a person, firm, corporation,
6 partnership, association, trust, or other legal entity or any
7 combination ~~thereof~~ OF THOSE ENTITIES, who owns a condominium
8 unit within the condominium project. ~~"Co-owner" may include a~~
9 ~~land contract vendee if the condominium documents or the land~~
10 ~~contract so provides~~ CO-OWNER INCLUDES LAND CONTRACT VENDEES AND
11 LAND CONTRACT VENDORS, WHO ARE CONSIDERED JOINTLY AND SEVERALLY
12 LIABLE UNDER THIS ACT AND THE CONDOMINIUM DOCUMENTS, EXCEPT AS
13 THE RECORDED CONDOMINIUM DOCUMENTS PROVIDE OTHERWISE.

14 (2) "Developer" means a person engaged in the business of
15 developing a condominium project as provided in this act.

16 Developer does not include ANY OF the following:

17 (a) A real estate broker acting as agent for the developer
18 in selling condominium units.

19 (B) A RESIDENTIAL BUILDER WHO ACQUIRES TITLE TO 1 OR MORE
20 CONDOMINIUM UNITS FOR THE PURPOSE OF RESIDENTIAL CONSTRUCTION ON
21 THOSE CONDOMINIUM UNITS AND SUBSEQUENT RESALE.

22 (C) ~~(b)~~ Other persons exempted from this definition by
23 rule or order of the administrator.

24 (3) "Escrow agent" means a bank, savings and loan associa-
25 tion, or title insurance company, licensed or authorized to do
26 business in this state ~~. An escrow agent may designate~~ OR a

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1 representative DESIGNATED to administer escrow funds in the name,
2 and on behalf, of the escrow agent.

3 (4) "Expandable condominium" means a condominium project to
4 which additional land may be added in accordance with this act.

5 (5) "General common elements" means the common elements
6 other than the limited common elements.

7 Sec. 10. (1) "Record" means to record pursuant to the laws
8 of this state relating to the recording of deeds ~~. However,~~
9 EXCEPT THAT the provisions of ~~Act No. 288 of the Public Acts of~~
10 ~~1967, as amended, being sections 560.101 to 560.293 of the~~
11 ~~Michigan Compiled Laws, shall~~ THE LAND DIVISION ACT, 1967 PA
12 288, MCL 560.101 TO 560.293, DO not control divisions made for
13 any condominium project.

14 (2) "RESIDENTIAL BUILDER" IS A PERSON LICENSED AS A RESIDEN-
15 TIAL BUILDER UNDER ARTICLE 24 OF THE OCCUPATIONAL CODE, 1980 PA
16 299, MCL 339.2401 TO 339.2412.

17 (3) ~~-(2)-~~ "Size" means the number of cubic feet, or the
18 number of square feet of ground or floor space, within each con-
19 dominium unit as computed by reference to the condominium subdi-
20 vision plan and rounded off to a whole number. Certain spaces
21 within the condominium units including, without limitation,
22 attic, basement, and garage space may be omitted from the calcu-
23 lation or partially discounted by the use of a ratio, if the same
24 basis of calculation is employed for all condominium units in the
25 condominium project, that basis is used for each condominium unit
26 in the condominium project, and that basis is disclosed in
27 appropriate condominium documents furnished to each co-owner.

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1 (4) ~~-(3)-~~ "Time-share unit" means a condominium unit in
2 which a time-share estate or a time-share license exists.

3 (5) ~~-(4)-~~ "Time-share estate" means a right to occupy a con-
4 dominium unit or any of several CONDOMINIUM units during 5 or
5 more separated time periods over a period of at least 5 years,
6 including renewal options, coupled with a freehold estate or an
7 estate for years.

8 (6) ~~-(5)-~~ "Time-share license" means a right to occupy a
9 condominium unit or any of several CONDOMINIUM units during 5 or
10 more separated time periods over a period of at least 5 years,
11 including renewal options, not coupled with a freehold estate or
12 an estate for years.

13 (7) ~~-(6)-~~ "Transitional control date" means the date on
14 which a board of directors for an association of co-owners takes
15 office pursuant to an election in which the votes ~~which~~ THAT
16 may be cast by eligible co-owners unaffiliated with the developer
17 exceed the votes which may be cast by the developer.

18 Sec. 40. To the extent that a condominium unit or common
19 element encroaches on any other condominium unit or common ele-
20 ment, whether by reason of any deviation from the plans in the
21 construction, repair, renovation, restoration, or replacement of
22 any improvement, or by reason of the settling or shifting of any
23 land or improvement, a valid easement for the encroachment shall
24 exist. THIS SECTION SHALL NOT BE CONSTRUED TO ALLOW OR PERMIT
25 ANY ENCROACHMENT UPON, OR AN EASEMENT FOR AN ENCROACHMENT UPON,
26 UNITS DESCRIBED IN THE MASTER DEED AS BEING COMPRISED OF LAND
27 AND/OR AIRSPACE ABOVE AND/OR BELOW SAID LAND, WITHOUT THE CONSENT

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1 OF THE CO-OWNER OF THE UNIT TO BE BURDENED BY THE ENCROACHMENT OR
2 EASEMENT.

3 Sec. 45. The developer and its duly authorized agents, rep-
4 resentatives, and employees, AND RESIDENTIAL BUILDERS WHO RECEIVE
5 AN ASSIGNMENT OF RIGHTS FROM THE DEVELOPER, may maintain offices,
6 model units, and other facilities on the submitted land. ~~and~~
7 THE DEVELOPER may include provisions in the condominium documents
8 relative to the facilities as may reasonably facilitate develop-
9 ment and sale of the project. The developer shall PAY OR BE
10 RESPONSIBLE TO REQUIRE A RESIDENTIAL BUILDER TO pay all costs
11 related to the condominium units or common elements while owned
12 by developer ~~,~~ and TO restore the facilities to habitable
13 status upon termination of use.

14 Sec. 47a. (1) A co-owner may make improvements or modifica-
15 tions to the co-owner's condominium unit, including improvements
16 or modifications to common elements and to the route from the
17 public way to the door of the co-owner's condominium unit, at his
18 or her expense, if the purpose of the improvement or modification
19 is to facilitate access to or movement within the unit for per-
20 sons with disabilities WHO RESIDE IN OR REGULARLY VISIT THE UNIT,
21 or to alleviate conditions that could be hazardous to persons
22 with disabilities WHO RESIDE IN OR REGULARLY VISIT THE UNIT. The
23 improvement or modification shall not impair the structural
24 integrity of a structure or otherwise lessen the support of a
25 portion of the condominium project. The co-owner ~~shall be~~ IS
26 liable for the cost of repairing any damage to a common element
27 caused by building or maintaining the improvement or

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1 modification, unless the damage could reasonably be expected in
2 the normal course of building or maintaining the improvement or
3 modification. The improvement or modification may be made not-
4 withstanding prohibitions and restrictions in the condominium
5 documents, but shall comply with all applicable state and local
6 building code requirements and health and safety laws and ordi-
7 nances and shall be made as closely as reasonably possible in
8 conformity with the intent of applicable prohibitions and
9 restrictions regarding safety and aesthetics of the proposed
10 modification.

11 (2) An improvement or modification allowed by this section
12 that affects the exterior of the condominium unit shall not
13 unreasonably prevent passage by other residents of the condomin-
14 ium project. A co-owner who has made exterior improvements or
15 modifications allowed by this section shall notify the associa-
16 tion of co-owners in writing of the co-owner's intention to
17 convey or lease his or her condominium unit to another ~~not~~
18 ~~less than~~ AT LEAST 30 days before the conveyance or lease. Not
19 more than 30 days after receiving a notice from a co-owner under
20 this subsection, the association of co-owners may require ~~that~~
21 the co-owner TO remove the improvement or modification ~~at the~~
22 co-owner's expense. If the co-owner fails to give timely notice
23 of a conveyance or lease, the association of co-owners at any
24 time may remove or require the co-owner to remove the improvement
25 or modification ~~at the~~ co-owner's expense. However, the
26 association of co-owners may not remove or require the removal of
27 an improvement or modification if A CO-OWNER INTENDS TO RESUME

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1 RESIDING IN THE UNIT WITHIN 12 MONTHS OR a co-owner conveys or
2 leases his or her condominium unit to a person with disabilities
3 who needs the same type of improvement or modification ~~, or to~~
4 ~~a person whose parent, spouse, or child is~~ WHO HAS a person
5 ~~with disabilities,~~ RESIDING WITH HIM OR HER WHO requires the
6 same type of improvement or modification. ~~, and resides with the~~
7 ~~person.~~

8 (3) If a co-owner makes an exterior improvement or modifica-
9 tion allowed under this section, the co-owner shall maintain
10 liability insurance, underwritten by an insurer authorized to do
11 business in this state AND NAMING THE ASSOCIATION OF CO-OWNERS AS
12 AN ADDITIONAL INSURED, in an amount adequate to compensate for
13 personal injuries caused by the exterior improvement or
14 modification. ~~, but the~~ THE co-owner ~~shall~~ IS not ~~be~~ liable
15 for acts or omissions of the association of co-owners with
16 respect to the exterior improvement or modification ~~, and the~~
17 ~~co-owner shall~~ IS not ~~be~~ required to maintain liability insur-
18 ance with respect to any common element. ~~The association of~~
19 ~~co-owners shall be responsible for the cost of any maintenance of~~
20 ~~the improvement or modification, unless the maintenance cannot~~
21 ~~reasonably be included with the regular maintenance performed by~~
22 ~~or paid for by the association of co-owners, in which case the~~
23 ~~co-owner shall be responsible for the cost of the maintenance of~~
24 ~~the improvement or modification.~~ THE ASSOCIATION OF CO-OWNERS IS
25 RESPONSIBLE FOR MAINTENANCE, REPAIR, AND REPLACEMENT OF THE
26 IMPROVEMENT OR MODIFICATION ONLY TO THE EXTENT OF THE COST
27 CURRENTLY INCURRED BY THE ASSOCIATION OF CO-OWNERS FOR

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1 MAINTENANCE, REPLACEMENT, AND REPAIR OF THE COMMON ELEMENTS
2 COVERED OR REPLACED BY THE IMPROVEMENT OR MODIFICATION. ALL
3 COSTS OF MAINTENANCE, REPAIR, AND REPLACEMENT OF THE IMPROVEMENT
4 OR MODIFICATION EXCEEDING THAT CURRENTLY INCURRED BY THE ASSOCIA-
5 TION OF CO-OWNERS FOR MAINTENANCE, REPAIR, AND REPLACEMENT OF THE
6 COMMON ELEMENTS COVERED OR REPLACED BY THE IMPROVEMENT OR MODIFI-
7 CATION SHALL BE ASSESSED TO AND PAID BY THE CO-OWNER OR THE UNIT
8 SERVICED BY THE IMPROVEMENT OR MODIFICATION.

9 (4) Before an improvement or modification allowed by this
10 section is made, the co-owner shall submit plans and specifica-
11 tions for the improvements or modifications to the association of
12 co-owners for review and approval. The association of co-owners
13 shall determine whether the proposed improvement or modification
14 substantially conforms to the requirements of this section ~~—~~,
15 ~~but~~ AND shall not deny a proposed improvement or modification
16 without good cause. If the association of co-owners denies a
17 proposed improvement or modification, the association of
18 co-owners shall list, in writing, the changes needed to make the
19 proposed improvement or modification conform to the requirements
20 of this section ~~—~~, and shall deliver that list to the co-owner.
21 The association of co-owners shall approve or deny the proposed
22 improvement or modification not later than 60 days after the
23 plans and specifications are submitted BY THE CO-OWNER PROPOSING
24 THE IMPROVEMENT OR MODIFICATION to the association of co-owners.
25 If the association of co-owners does not approve or deny submit-
26 ted plans and specifications within the 60-day period, the
27 co-owner may make the proposed improvement or modification

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1 without the approval of the association of co-owners. A co-owner
2 may bring an action against the association of co-owners and the
3 officers and directors to compel those persons to comply with
4 this section if the co-owner disagrees with a denial by the asso-
5 ciation of co-owners of the co-owner's proposed improvement or
6 modification.

7 (5) This section applies to condominium units existing on
8 May 27, 1987 and to those built or converted after May 27, 1987.

9 (6) This section does not apply to a condominium unit that
10 is otherwise required by law to be barrier-free ~~—~~ and does not
11 impose on a co-owner the cost of maintaining that barrier-free
12 unit.

13 (7) As used in this section, "person with disabilities"
14 means that term as defined in section 2 of the state construction
15 code act of 1972, 1972 PA 230, MCL 125.1502.

16 Sec. 52. (1) An advisory committee of nondeveloper
17 co-owners shall be established either 120 days after conveyance
18 of legal or equitable title to nondeveloper co-owners of 1/3 of
19 the units that may be created ~~—~~ or 1 year after the initial
20 conveyance of legal or equitable title to a nondeveloper co-owner
21 of a unit in the project, whichever occurs first. The advisory
22 committee shall meet with the condominium project board of direc-
23 tors for the purpose of facilitating communication and aiding the
24 transition of control to the association of co-owners. The
25 advisory committee shall cease to exist when a majority of the
26 board of directors of the association of co-owners is elected by
27 the nondeveloper co-owners.

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1 (2) Not later than 120 days after conveyance of legal or
2 equitable title to nondeveloper co-owners of 25% of the units
3 that may be created, at least 1 director and not less than 25% of
4 the board of directors of the association of co-owners shall be
5 elected by nondeveloper co-owners. Not later than 120 days after
6 conveyance of legal or equitable title to nondeveloper co-owners
7 of 50% of the units that may be created, not less than 33-1/3% of
8 the board of directors shall be elected by nondeveloper
9 co-owners. Not later than 120 days after conveyance of legal or
10 equitable title to nondeveloper co-owners of 75% of the units
11 that may be created, and before conveyance of 90% of such units,
12 the nondeveloper co-owners shall elect all directors on the
13 board, except that the developer shall have the right to desig-
14 nate at least 1 director as long as the developer owns and offers
15 for sale at least 10% of the units in the project or as long as
16 10% of the units remain that may be created.

17 (3) Notwithstanding the formula provided in subsection (2),
18 54 months after the first conveyance of legal or equitable title
19 to a nondeveloper co-owner of a unit in the project, if title to
20 not less than 75% of the units that may be created has not been
21 conveyed, the nondeveloper co-owners have the right to elect, as
22 provided in the condominium documents, a number of members of the
23 board of directors of the association of co-owners equal to the
24 percentage of units they hold ~~—~~ and the developer has the right
25 to elect, as provided in the condominium documents, a number of
26 members of the board equal to the percentage of units which are
27 owned by the developer and for which all assessments are payable

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1 by the developer. This election may increase, but ~~shall~~ DOES
2 not reduce, the minimum election and designation rights otherwise
3 established in subsection (2). Application of this subsection
4 does not require a change in the size of the board as determined
5 in the condominium documents.

6 (4) If the calculation of the percentage of members of the
7 board that the nondeveloper co-owners have the right to elect
8 under subsection (2), or if the product of the number of members
9 of the board multiplied by the percentage of units held by the
10 nondeveloper co-owners under subsection (3) results in a right of
11 nondeveloper co-owners to elect a fractional number of members of
12 the board, then a fractional election right of 0.5 or greater
13 shall be rounded up to the nearest whole number, which number
14 shall be the number of members of the board that the nondeveloper
15 co-owners have the right to elect. After application of ~~this~~
16 THE formula CONTAINED IN THIS SUBSECTION, the developer ~~shall~~
17 ~~have~~ HAS the right to elect the remaining members of the board.
18 Application of this subsection ~~shall~~ DOES not eliminate the
19 right of the developer to designate 1 member as provided in sub-
20 section (2).

21 (5) A consolidating master deed and plans showing the condo-
22 minium as built shall be recorded not later than ~~180 days~~ 1
23 YEAR after completion of construction in order to consolidate all
24 phases or amendments of a condominium project. A copy of the
25 recorded consolidating master deed shall be provided to the asso-
26 ciation of co-owners.

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1 (6) As used in this section, "units that may be created"
2 means the maximum number of units in all phases of the
3 condominium project as stated in the master deed.

4 (7) FOR PURPOSES OF CALCULATING THE TIMING OF EVENTS
5 DESCRIBED IN THIS SECTION, CONVEYANCE BY A DEVELOPER TO A RESI-
6 DENTIAL BUILDER, EVEN THOUGH NOT AN AFFILIATE OF THE DEVELOPER,
7 IS NOT CONSIDERED A SALE TO A NONDEVELOPER CO-OWNER UNTIL SUCH
8 TIME AS THE RESIDENTIAL BUILDER CONVEYS THAT UNIT WITH A COM-
9 PLETED RESIDENCE ON IT OR UNTIL IT CONTAINS A COMPLETED RESIDENCE
10 WHICH IS OCCUPIED.

11 Sec. 54. (1) The bylaws shall contain provisions for the
12 designation of persons to administer the affairs of the condomin-
13 ium project and shall require that those persons keep books and
14 records with a detailed account of the expenditures and receipts
15 affecting the condominium project and its administration, and
16 which specify the operating expenses of the project.

17 (2) The bylaws shall provide that the person designated to
18 administer the affairs of the project shall be assessed as the
19 person in possession for any tangible personal property of the
20 project owned or possessed in common by the co-owners. Personal
21 property taxes based on that tangible personal property shall be
22 treated as expenses of administration.

23 (3) The bylaws shall contain specific provisions directing
24 the courses of action to be taken in the event of partial or com-
25 plete destruction of the building or buildings in the project.

26 (4) The bylaws shall provide that expenditures affecting the
27 administration of the project shall include costs incurred in the

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1 satisfaction of any liability arising within, caused by, or
2 connected with, the common elements or the administration of the
3 condominium project, and that receipts affecting the administra-
4 tion of the condominium project shall include all sums received
5 as the proceeds of, or pursuant to, a policy of insurance secur-
6 ing the interest of the co-owners against liabilities or losses
7 arising within, caused by, or connected with the common elements
8 or the administration of the condominium project.

9 (5) The bylaws shall provide that the association of
10 co-owners shall prepare and distribute to each owner at least
11 once each year a financial statement, the contents of which shall
12 be defined by the association of co-owners.

13 (6) The bylaws shall provide an indemnification clause for
14 the board of directors of the association of co-owners. The
15 indemnification clause shall require that 10 days' notice, before
16 payment under the clause, be given to the co-owners. The indem-
17 nification clause shall exclude indemnification for ~~wilful~~
18 WILLFUL and wanton misconduct and for gross negligence.

19 (7) The bylaws may allocate to each condominium unit a
20 number of votes in the association of co-owners proportionate to
21 the percentage of value appertaining to each condominium unit, or
22 an equal number of votes in the association of co-owners.

23 (8) THE BYLAWS SHALL CONTAIN A PROVISION PROVIDING THAT
24 ARBITRATION OF DISPUTES, CLAIMS, AND GRIEVANCES ARISING OUT OF OR
25 RELATING TO THE INTERPRETATION OF THE APPLICATION OF THE CONDO-
26 MINIUM DOCUMENT OR ARISING OUT OF DISPUTES AMONG OR BETWEEN
27 CO-OWNERS SHALL BE SUBMITTED TO ARBITRATION AND THAT THE PARTIES

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1 TO THE DISPUTE, CLAIM, OR GRIEVANCE SHALL ACCEPT THE ARBITRATOR'S
2 DECISION AS FINAL AND BINDING, UPON THE ELECTION AND WRITTEN CON-
3 SENT OF THE PARTIES TO THE DISPUTES, CLAIMS, OR GRIEVANCES AND
4 UPON WRITTEN NOTICE TO THE ASSOCIATION. THE COMMERCIAL ARBITRA-
5 TION RULES OF THE AMERICAN ARBITRATION ASSOCIATION ARE APPLICABLE
6 TO ANY SUCH ARBITRATION.

7 (9) IN THE ABSENCE OF THE ELECTION AND WRITTEN CONSENT OF
8 THE PARTIES UNDER SUBSECTION (8), NEITHER A CO-OWNER NOR THE
9 ASSOCIATION IS PROHIBITED FROM PETITIONING A COURT OF COMPETENT
10 JURISDICTION TO RESOLVE ANY DISPUTE, CLAIM, OR GRIEVANCE.

11 (10) THE ELECTION BY THE PARTIES TO SUBMIT ANY DISPUTE,
12 CLAIM, OR GRIEVANCE TO ARBITRATION PROHIBITS THE PARTIES FROM
13 PETITIONING THE COURTS REGARDING THAT DISPUTE, CLAIM, OR
14 GRIEVANCE.

15 Sec. 58. If the mortgagee of a first mortgage of record or
16 other purchaser of a condominium unit obtains title to the condo-
17 minium unit as a result of foreclosure of the first mortgage,
18 such person, its successors, and assigns ~~, is~~ ARE not liable
19 for the assessments by the administering body chargeable to the
20 unit ~~which~~ THAT became due prior to the acquisition of title to
21 the unit by such person EXCEPT FOR ASSESSMENTS THAT HAVE PRIORITY
22 OVER THE FIRST MORTGAGE UNDER SECTION 108. ~~The unpaid assess-~~
23 ~~ments are deemed to be common expenses collectible from all of~~
24 ~~the condominium unit owners including such persons, its succes-~~
25 ~~sors and assigns.~~

26 Sec. 67. (1) A change in a condominium project shall be
27 reflected in an amendment to the appropriate condominium

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1 document. An amendment TO THE CONDOMINIUM DOCUMENT is subject to
2 sections 90 and 91.

3 (2) If a change involves a change in the boundaries of a
4 condominium unit ~~—~~ or the addition or elimination of condomin-
5 ium units, a replat of the condominium subdivision plan shall be
6 prepared and recorded assigning a condominium unit number to each
7 condominium unit in the amended project. The replat of the con-
8 dominium subdivision plan shall be designated replat number
9 _____ of _____ county condominium subdivision plan
10 number _____, using the same plan number assigned to the
11 original condominium subdivision plan.

12 (3) NOTWITHSTANDING SECTION 33, IF THE DEVELOPER HAS NOT
13 COMPLETED DEVELOPMENT AND CONSTRUCTION OF THE ENTIRE CONDOMINIUM
14 PROJECT, INCLUDING PROPOSED IMPROVEMENTS WHETHER IDENTIFIED AS
15 "MUST BE BUILT" OR "NEED NOT BE BUILT", DURING A PERIOD ENDING 10
16 YEARS FROM THE DATE OF COMMENCEMENT OF CONSTRUCTION BY THE DEVEL-
17 OPER OF THE PROJECT, THE DEVELOPER, ITS SUCCESSORS, OR ASSIGNS
18 HAVE THE RIGHT TO WITHDRAW FROM THE PROJECT ALL UNDEVELOPED POR-
19 TIONS OF THE PROJECT WITHOUT THE PRIOR CONSENT OF ANY CO-OWNERS,
20 MORTGAGEES OF UNITS IN THE PROJECT, OR ANY OTHER PARTY HAVING AN
21 INTEREST IN THE PROJECT. IF THE MASTER DEED CONTAINS PROVISIONS
22 PERMITTING THE EXPANSION, CONTRACTION, OR RIGHTS OF CONVERTIBIL-
23 ITY OF UNITS OR COMMON ELEMENTS IN THE CONDOMINIUM PROJECT, THEN
24 THE TIME PERIOD IS 6 YEARS FROM THE DATE THE DEVELOPER EXERCISED
25 ITS RIGHTS WITH RESPECT TO EITHER EXPANSION, CONTRACTION, OR
26 RIGHTS OF CONVERTIBILITY, WHICHEVER RIGHT WAS EXERCISED LAST.
27 THE UNDEVELOPED PORTIONS OF THE PROJECT WITHDRAWN SHALL ALSO

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1 AUTOMATICALLY BE GRANTED EASEMENTS FOR UTILITY AND ACCESS
2 PURPOSES THROUGH THE CONDOMINIUM PROJECT FOR THE BENEFIT OF THE
3 UNDEVELOPED PORTIONS OF THE PROJECT. IF THE DEVELOPER DOES NOT
4 WITHDRAW THE UNDEVELOPED PORTIONS OF THE PROJECT FROM THE PROJECT
5 BEFORE EXPIRATION OF THE TIME PERIODS, SUCH LANDS SHALL REMAIN
6 PART OF THE PROJECT AS GENERAL COMMON ELEMENTS AND ALL RIGHTS TO
7 CONSTRUCT UNITS UPON THAT LAND SHALL CEASE. IN SUCH AN EVENT, IF
8 IT BECOMES NECESSARY TO ADJUST PERCENTAGES OF VALUE AS A RESULT
9 OF FEWER UNITS EXISTING, A CO-OWNER OR THE ASSOCIATION OF
10 CO-OWNERS MAY BRING AN ACTION TO REQUIRE REVISIONS TO THE PERCENT-
11 TAGES OF VALUE PURSUANT TO SECTION 96.

12 Sec. 69. (1) Except to the extent that the condominium doc-
13 uments provide otherwise, common expenses associated with the
14 maintenance, repair, renovation, restoration, or replacement of a
15 limited common element shall be specially assessed against the
16 condominium unit to which that limited common element was
17 assigned at the time the expenses were incurred. If the limited
18 common element involved was assigned to more than 1 condominium
19 unit, the expenses shall be specially assessed against each of
20 the condominium units equally so that the total of the special
21 assessments equals the total of the expenses, except to the
22 extent that the condominium documents provide otherwise.

23 (2) To the extent that the condominium documents expressly
24 so provide, any other unusual common expenses benefiting less
25 than all of the condominium units, or any expenses incurred as a
26 result of the conduct of less than all those entitled to occupy
27 the condominium project or by their licensees or invitees, shall

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1 be specially assessed against the condominium unit or condominium
2 units involved, in accordance with reasonable provisions as the
3 condominium documents may provide.

4 (3) The amount of all common expenses not specially assessed
5 pursuant to subsections (1) and (2) shall be assessed against the
6 condominium units in proportion to the ~~number of votes in the~~
7 ~~association of co-owners appertaining to each condominium unit~~
8 PERCENTAGES OF VALUE OR OTHER FORMULA STATED IN THE MASTER DEED
9 FOR APPORTIONMENT OF EXPENSES OF ADMINISTRATION.

10 (4) A co-owner shall not be exempt from contributing as pro-
11 vided in this act by nonuse or waiver of the use of any of the
12 common elements or by abandonment of his OR HER condominium
13 unit.

14 SEC. 72B. (1) A CONDOMINIUM PROJECT MAY BE ESTABLISHED FOR
15 PROPERTY CONSISTING OF A SEPARATE LEGAL PARCEL IN SPACE THAT IS
16 CONSIDERED THE AIR SPACE OVER A FEE, IMPROVED OR UNIMPROVED, IN
17 REAL PROPERTY LAW. SUCH A CONDOMINIUM PROJECT MAY BE PROVIDED
18 EASEMENTS, LICENSES, AND OTHER RIGHTS AS MAY BE NECESSARY TO PRO-
19 VIDE ACCESS TO AND OTHERWISE SERVE THE NEEDS OF THE PROJECT FROM
20 THE UNDERLYING SURFACE PARCEL.

21 (2) THIS SECTION APPLIES TO ANY QUESTION REGARDING WHETHER
22 ANY AIR SPACE EXISTING OVER A FEE MAY BE SUBMITTED TO, AND ESTAB-
23 LISHED AS, A CONDOMINIUM UNDER THIS ACT AND APPLIES TO DEVELOP-
24 MENT AS A CONDOMINIUM OF AIR SPACE OVER A FEE.

25 Sec. 73. (1) A master deed and an amendment to the master
26 deed shall be recorded.

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1 (2) A master deed shall not be recorded without a
2 certification by the treasurer collecting the property taxes and
3 special assessments that all property taxes and current install-
4 ments of special assessments which became a lien on the property
5 involved in the project are paid in full.

6 (3) When recorded, a copy of the master deed and a copy of
7 any subsequently amended master deed or amendment shall be filed
8 with the local supervisor or assessing officer.

9 (4) Detailed architectural plans and specifications for the
10 condominium project, IF THAT CONDOMINIUM PROJECT CONTAINS ANY
11 UNITS THAT REQUIRE ARCHITECTURAL PLANS AND SPECIFICATIONS TO
12 CONSTRUCT, shall be filed with the local unit of government in
13 which the project is located. However, in the case of a conver-
14 sion condominium where detailed architectural plans and specifi-
15 cations are not available, the developer shall file with the
16 local unit of government an affidavit stating ~~that~~ THE fact
17 THAT DETAILED ARCHITECTURAL PLANS AND SPECIFICATIONS ARE NOT
18 AVAILABLE.

19 Sec. 90. (1) The condominium documents may be amended with-
20 out the consent of co-owners or mortgagees if the amendment does
21 not materially alter or change the rights of a co-owner or mort-
22 gagee ~~,~~ and IF the condominium documents contain a reservation
23 of the right to amend for that purpose to the developer or the
24 association of co-owners. An amendment ~~which~~ THAT does not
25 materially change the rights of a co-owner or mortgagee includes,
26 ~~without limitation~~ BUT IS NOT LIMITED TO, a modification of the
27 types and sizes of unsold condominium units and their appurtenant

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1 limited common elements. AN AMENDMENT THAT DOES NOT MATERIALLY
2 CHANGE THE RIGHTS OF A MORTGAGEE FURTHER INCLUDES, BUT IS NOT
3 LIMITED TO, ANY CHANGE IN THE CONDOMINIUM DOCUMENTS THAT, IN THE
4 WRITTEN OPINION OF AN APPROPRIATELY LICENSED REAL ESTATE APPRAIS-
5 ER, DOES NOT DETRIMENTALLY CHANGE THE VALUE OF ANY UNIT AFFECTED
6 BY THE CHANGE.

7 (2) Except as provided in this section, the master deed,
8 bylaws, and condominium subdivision plan may be amended, even if
9 the amendment will materially alter or change the rights of the
10 co-owners or mortgagees, with the consent of not less than 2/3 of
11 the votes of the co-owners and mortgagees. A mortgagee shall
12 have 1 vote for each mortgage held. The 2/3 majority required in
13 this section may not be increased by the terms of the condominium
14 documents, and a provision in any condominium documents that
15 requires the consent of a greater proportion of co-owners or
16 mortgagees for the purposes described in this subsection is void
17 and is superseded by this subsection. MORTGAGEES ARE NOT
18 REQUIRED TO APPEAR AT ANY MEETING OF CO-OWNERS EXCEPT THAT THEIR
19 APPROVAL SHALL BE SOLICITED THROUGH WRITTEN BALLOTS. ANY MORTGA-
20 GEE BALLOTS NOT RETURNED WITHIN 90 DAYS OF MAILING SHALL BE
21 COUNTED AS APPROVAL FOR THE CHANGE.

22 (3) The developer may reserve, in the condominium documents,
23 the right to amend materially the condominium documents to
24 achieve specified purposes, except a purpose provided for in sub-
25 section (4). Reserved rights may not be amended except by or
26 with the consent of the developer. If a proper reservation is
27 made, the condominium documents may be amended to achieve the

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1 specified purposes, without the consent of co-owners or
2 mortgagees.

3 (4) The method or formula used to determine the percentage
4 of value of units in the project for other than voting purposes,
5 and any provisions relating to the ability or terms under which a
6 co-owner may rent a unit, may not be modified without the consent
7 of each affected co-owner and mortgagee. A co-owner's condomin-
8 ium unit dimensions or appurtenant limited common elements may
9 not be modified without the co-owner's consent.

10 (5) Co-owners ~~and mortgagees of record~~ shall be notified
11 of proposed amendments, under this section, not less than 10 days
12 before the amendment is recorded.

13 (6) A person causing or requesting an amendment to the con-
14 dominium documents shall be responsible for costs and expenses of
15 the amendment, except for amendments based upon a vote of a pre-
16 scribed majority of co-owners and mortgagees or based upon the
17 advisory committee's decision, the costs of which are expenses of
18 administration.

19 (7) A master deed amendment, including the consolidating
20 master deed, dealing with the addition, withdrawal, or modifica-
21 tion of units or other physical characteristics of the project
22 shall comply with the standards prescribed in section 66 for
23 preparation of an original condominium subdivision plan for the
24 project.

25 (8) FOR PURPOSES OF THIS SECTION, THE AFFIRMATIVE VOTE OF A
26 2/3 OF CO-OWNERS IS CONSIDERED 2/3 OF ALL CO-OWNERS ENTITLED TO
27 VOTE AS OF THE RECORD DATE FOR SUCH VOTES.

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1 SEC. 90A. (1) TO THE EXTENT THIS ACT OR THE CONDOMINIUM
2 DOCUMENTS REQUIRE A VOTE OF MORTGAGEES OF UNITS ON AMENDMENT OF
3 THE CONDOMINIUM DOCUMENTS, THE PROCEDURE DESCRIBED IN THIS SEC-
4 TION APPLIES.

5 (2) THE DATE ON WHICH THE PROPOSED AMENDMENT IS APPROVED BY
6 THE REQUISITE MAJORITY OF CO-OWNERS IS CONSIDERED THE "CONTROL
7 DATE".

8 (3) ONLY THOSE MORTGAGEES WHO HOLD A DULY RECORDED MORTGAGE
9 OR A DULY RECORDED ASSIGNMENT OF A MORTGAGE AGAINST 1 OR MORE
10 CONDOMINIUM UNITS IN THE CONDOMINIUM PROJECT ON THE CONTROL DATE
11 IS ENTITLED TO VOTE ON THE AMENDMENT. EACH MORTGAGEE ENTITLED TO
12 VOTE SHALL HAVE 1 VOTE FOR EACH CONDOMINIUM UNIT IN THE PROJECT
13 THAT IS SUBJECT TO ITS MORTGAGE OR MORTGAGES, WITHOUT REGARD TO
14 HOW MANY MORTGAGES THE MORTGAGEE MAY HOLD ON A PARTICULAR CONDO-
15 MINIUM UNIT.

16 (4) THE ASSOCIATION OF CO-OWNERS SHALL GIVE A NOTICE TO EACH
17 MORTGAGEE ENTITLED TO VOTE CONTAINING ALL OF THE FOLLOWING:

18 (A) A COPY OF THE AMENDMENT OR AMENDMENTS AS PASSED BY THE
19 CO-OWNERS.

20 (B) A STATEMENT OF THE DATE THAT THE AMENDMENT WAS APPROVED
21 BY THE REQUISITE MAJORITY OF CO-OWNERS.

22 (C) AN ENVELOPE ADDRESSED TO THE ENTITY AUTHORIZED BY THE
23 BOARD OF DIRECTORS FOR TABULATING MORTGAGEE VOTES.

24 (D) A STATEMENT CONTAINING LANGUAGE IN SUBSTANTIALLY THE
25 FORM DESCRIBED IN SUBSECTION (5).

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1 (E) A BALLOT PROVIDING SPACES FOR APPROVING OR REJECTING THE
2 AMENDMENT AND A SPACE FOR THE SIGNATURE OF THE MORTGAGEE OR AN
3 OFFICER OF THE MORTGAGEE.

4 (F) A STATEMENT OF THE NUMBER OF CONDOMINIUM UNITS SUBJECT
5 TO THE MORTGAGE OR MORTGAGES OF THE MORTGAGEE.

6 (G) THE DATE BY WHICH THE MORTGAGEE MUST RETURN ITS BALLOT.

7 (5) THE NOTICE PROVIDED BY SUBSECTION (4) SHALL CONTAIN A
8 STATEMENT IN SUBSTANTIALLY THE FOLLOWING FORM:

9 "A REVIEW OF THE ASSOCIATION RECORDS REVEALS THAT YOU ARE
10 THE HOLDER OF 1 OR MORE MORTGAGES RECORDED AGAINST TITLE TO 1 OR
11 MORE UNITS IN THE (NAME OF PROJECT) CONDOMINIUM. THE CO-OWNERS
12 OF THE CONDOMINIUM ADOPTED THE ATTACHED AMENDMENT TO THE CONDO-
13 MINIUM DOCUMENTS ON (CONTROL DATE). PURSUANT TO THE TERMS OF THE
14 CONDOMINIUM DOCUMENTS AND/OR THE MICHIGAN CONDOMINIUM ACT, YOU
15 ARE ENTITLED TO VOTE ON THE AMENDMENT. YOU HAVE 1 VOTE FOR EACH
16 UNIT THAT IS SUBJECT TO YOUR MORTGAGE OR MORTGAGES.

17 THE AMENDMENT WILL BE CONSIDERED APPROVED BY MORTGAGEES IF
18 IT IS APPROVED BY 66-2/3% OF THE MORTGAGEES. IN ORDER TO VOTE,
19 YOU MUST INDICATE YOUR APPROVAL OR REJECTION ON THE ENCLOSED
20 BALLOT, SIGN IT, AND RETURN IT NOT LATER THAN 90 DAYS FROM (THE
21 CONTROL DATE). FAILURE TO TIMELY RETURN A BALLOT WILL CONSTITUTE
22 A VOTE FOR APPROVAL. IF YOU OPPOSE THE AMENDMENT, YOU MUST VOTE
23 AGAINST IT."

24 (6) THE ASSOCIATION OF CO-OWNERS SHALL MAIL THE NOTICE
25 REQUIRED BY SUBSECTION (4) TO THE MORTGAGEE AT THE ADDRESS PRO-
26 VIDED IN THE MORTGAGE OR ASSIGNMENT FOR NOTICES BY CERTIFIED

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1 MAIL, RETURN RECEIPT REQUESTED, POSTMARKED WITHIN 30 DAYS AFTER
2 THE CONTROL DATE.

3 (7) THE AMENDMENT IS CONSIDERED TO BE APPROVED BY THE MORT-
4 GAGEES IF IT IS APPROVED BY 66-2/3% OF THE MORTGAGEES WHOSE BAL-
5 LOTS ARE RECEIVED, OR ARE CONSIDERED TO BE RECEIVED, IN ACCORD-
6 ANCE WITH SECTION 90(2), BY THE ENTITY AUTHORIZED BY THE BOARD OF
7 DIRECTORS TO TABULATE MORTGAGEE VOTES NOT LATER THAN 100 DAYS
8 AFTER THE CONTROL DATE. IN DETERMINING THE 100 DAYS, THE CONTROL
9 DATE ITSELF SHALL NOT BE COUNTED BUT THE ONE-HUNDREDTH DAY SHALL
10 BE INCLUDED UNLESS THE ONE-HUNDREDTH DAY IS A SATURDAY, SUNDAY,
11 LEGAL HOLIDAY, OR HOLIDAY ON WHICH THE UNITED STATES POSTAL
12 SERVICE DOES NOT REGULARLY DELIVER MAIL, IN WHICH CASE THE LAST
13 DAY OF THE 100 DAYS SHALL BE THE NEXT DAY THAT IS NOT A SATURDAY,
14 SUNDAY, LEGAL HOLIDAY, OR HOLIDAY ON WHICH THE UNITED STATES
15 POSTAL SERVICE DOES NOT REGULARLY DELIVER MAIL.

16 (8) THE ASSOCIATION OF CO-OWNERS SHALL MAINTAIN A COPY OF
17 THE NOTICE, PROOFS OF MAILING OF THE NOTICE, AND THE BALLOTS
18 RETURNED BY MORTGAGEES FOR A PERIOD OF 2 YEARS AFTER THE CONTROL
19 DATE.

20 (9) NOTWITHSTANDING ANY PROVISION OF THE CONDOMINIUM DOCU-
21 MENTS TO THE CONTRARY, MORTGAGEES ARE ENTITLED TO VOTE ON AMEND-
22 MENTS TO THE CONDOMINIUM DOCUMENTS ONLY UNDER THE FOLLOWING
23 CIRCUMSTANCES:

24 (A) TERMINATION OF THE CONDOMINIUM PROJECT.

25 (B) A CHANGE IN THE METHOD OR FORMULA USED TO DETERMINE THE
26 PERCENTAGE OF VALUE ASSIGNED TO A UNIT SUBJECT TO THE MORTGAGEE'S
27 MORTGAGE.

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1 (C) A REALLOCATION OF RESPONSIBILITY FOR MAINTENANCE,
2 REPAIR, REPLACEMENT, OR DECORATION FOR A CONDOMINIUM UNIT, ITS
3 APPURTENANT LIMITED COMMON ELEMENTS, OR THE GENERAL COMMON ELE-
4 MENTS FROM THE ASSOCIATION OF CO-OWNERS TO THE CONDOMINIUM UNIT
5 SUBJECT TO THE MORTGAGEE'S MORTGAGE.

6 (D) ELIMINATION OF A REQUIREMENT FOR THE ASSOCIATION OF
7 CO-OWNERS TO MAINTAIN INSURANCE ON THE PROJECT AS A WHOLE OR A
8 CONDOMINIUM UNIT SUBJECT TO THE MORTGAGEE'S MORTGAGE OR REALLOCA-
9 TION OF RESPONSIBILITY FOR OBTAINING OR MAINTAINING, OR BOTH,
10 INSURANCE FROM THE ASSOCIATION OF CO-OWNERS TO THE CONDOMINIUM
11 UNIT SUBJECT TO THE MORTGAGEE'S MORTGAGE.

12 (E) THE MODIFICATION OR ELIMINATION OF AN EASEMENT BENEFIT-
13 ING THE CONDOMINIUM UNIT SUBJECT TO THE MORTGAGEE'S MORTGAGE.

14 (F) THE PARTIAL OR COMPLETE MODIFICATION, IMPOSITION, OR
15 REMOVAL OF LEASING RESTRICTIONS FOR CONDOMINIUM UNITS IN THE CON-
16 DOMINIUM PROJECT.

17 Sec. 106. A default by a co-owner shall entitle the associ-
18 ation of co-owners to the following relief:

19 (a) Failure to comply with any of the terms or provisions of
20 the condominium documents, shall be grounds for relief, which may
21 include without limitations, an action to recover sums due for
22 damages, injunctive relief, foreclosure of lien if default in
23 payment of assessment, or any combination thereof.

24 (b) In a proceeding arising because of an alleged default by
25 a co-owner, the association of co-owners OR THE CO-OWNER, if suc-
26 cessful, ~~may~~ SHALL recover the costs of the proceeding and
27 ~~such~~ reasonable ~~attorneys'~~ ATTORNEY fees, as ~~may be~~

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1 determined by the court, TO THE EXTENT THE CONDOMINIUM DOCUMENTS
2 EXPRESSLY SO PROVIDE.

3 (c) Such other reasonable remedies the condominium documents
4 may provide including but without limitation the levying of fines
5 against co-owners after notice and hearing thereon and the impo-
6 sition of late charges for ~~non-payment~~ NONPAYMENT of assess-
7 ments as provided in the condominium bylaws or rules and regula-
8 tions of the condominium.

9 Sec. 107. A co-owner may maintain an action against the
10 association of co-owners and its officers and directors to compel
11 these persons to enforce the terms and provisions of the condo-
12 minium documents. IN SUCH A PROCEEDING, THE ASSOCIATION OF
13 CO-OWNERS OR THE CO-OWNER, IF SUCCESSFUL, SHALL RECOVER THE COSTS
14 OF THE PROCEEDING AND REASONABLE ATTORNEY FEES, AS DETERMINED BY
15 THE COURT, TO THE EXTENT THAT THE CONDOMINIUM DOCUMENTS EXPRESSLY
16 SO PROVIDE. A co-owner may maintain an action against any other
17 co-owner for injunctive relief or for damages or any combination
18 thereof for noncompliance with the terms and provisions of the
19 condominium documents or this act.

20 Sec. 108. (1) Sums assessed to a co-owner by the associa-
21 tion of co-owners ~~which~~ THAT are unpaid TOGETHER WITH INTEREST
22 ON SUCH SUMS, COLLECTION AND LATE CHARGES, ADVANCES MADE BY THE
23 ASSOCIATION OF CO-OWNERS FOR TAXES OR OTHER LIENS TO PROTECT ITS
24 LIEN, ATTORNEY FEES, AND FINES IN ACCORDANCE WITH THE CONDOMINIUM
25 DOCUMENTS, constitute a lien upon the unit or units in the
26 project owned by the co-owner at the time of the assessment
27 before other liens except tax liens on the condominium unit in

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1 favor of any state or federal taxing authority and sums unpaid on
2 a first mortgage of record except that past due assessments
3 ~~which~~ THAT are evidenced by a notice of lien, recorded as set
4 forth in subsection (3), have priority over a first mortgage
5 recorded subsequent to the recording of the notice of lien. The
6 lien upon each condominium unit owned by the co-owner shall be in
7 the amount assessed against the condominium unit, plus a propor-
8 tionate share of the total of all other unpaid assessments
9 attributable to condominium units no longer owned by the co-owner
10 but which became due while the co-owner had title to the condo-
11 minium units. The lien may be foreclosed by an action or by
12 advertisement by the association of co-owners in the name of the
13 condominium project on behalf of the other co-owners.

14 (2) A foreclosure shall be in the same manner as a foreclo-
15 sure under the laws relating to foreclosure of real estate mort-
16 gages by advertisement or judicial action EXCEPT THAT TO THE
17 EXTENT THE CONDOMINIUM DOCUMENTS PROVIDE, THE ASSOCIATION OF
18 CO-OWNERS IS ENTITLED TO REASONABLE INTEREST, EXPENSES, COSTS,
19 AND ATTORNEY FEES FOR FORECLOSURE BY ADVERTISEMENT OR JUDICIAL
20 ACTION. THE REDEMPTION PERIOD FOR A FORECLOSURE IS 6 MONTHS FROM
21 THE DATE OF SALE UNLESS THE PROPERTY IS ABANDONED, IN WHICH EVENT
22 THE REDEMPTION PERIOD IS 1 MONTH FROM THE DATE OF SALE.

23 (3) A foreclosure proceeding may not be commenced without
24 recordation and service of notice of lien in accordance with the
25 following:

26 (a) Notice of lien shall set forth ALL OF THE FOLLOWING:

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1 (i) The legal description of the condominium unit or
2 condominium units to which the lien attaches.

3 (ii) The name of the co-owner of record. ~~thereof.~~

4 (iii) The amounts due the association of co-owners at the
5 date of the notice, exclusive of interest, costs, attorney fees,
6 and future assessments.

7 (b) The notice of lien shall be in recordable form, executed
8 by an authorized representative of the association of co-owners
9 and may contain other information ~~as~~ THAT the association of
10 co-owners ~~may deem~~ CONSIDERS appropriate.

11 (c) The notice of lien shall be recorded in the office of
12 register of deeds in the county in which the condominium project
13 is located and shall be served upon the delinquent co-owner by
14 first-class mail, postage prepaid, addressed to the last known
15 address of the co-owner at least 10 days in advance of commence-
16 ment of the foreclosure proceeding.

17 (4) The association of co-owners, acting on behalf of all
18 co-owners, unless prohibited by the master deed or bylaws, may
19 bid in at the foreclosure sale, and acquire, hold, lease, mort-
20 gage, or convey the condominium unit.

21 (5) An action to recover money judgments for unpaid assess-
22 ments may be maintained without foreclosing or waiving the lien.

23 (6) An action for money damages and foreclosure may be com-
24 bined in 1 action.

25 (7) A receiver may be appointed in an action for foreclosure
26 of the assessment lien and may be empowered to take possession of
27 the condominium unit, if not occupied by the co-owner and to

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1 lease the condominium unit and collect and apply the rental
2 therefrom.

3 (8) THE CO-OWNER OF A CONDOMINIUM UNIT SUBJECT TO FORECLO-
4 SURE PURSUANT TO THIS SECTION, AND ANY PURCHASER, GRANTEE, SUC-
5 CESSOR, OR ASSIGNEE OF THE CO-OWNER'S INTEREST IN THE CONDOMINIUM
6 UNIT, IS LIABLE FOR ASSESSMENTS BY THE ASSOCIATION OF CO-OWNERS
7 CHARGEABLE TO THE CONDOMINIUM UNIT THAT BECOME DUE BEFORE EXPIRA-
8 TION OF THE PERIOD OF REDEMPTION TOGETHER WITH INTEREST, ADVANCES
9 MADE BY THE ASSOCIATION OF CO-OWNERS FOR TAXES OR OTHER LIENS TO
10 PROTECT ITS LIEN, COSTS, AND ATTORNEY FEES INCURRED IN THEIR
11 COLLECTION.

12 (9) THE MORTGAGEE OF A FIRST MORTGAGE OF RECORD OF A CONDO-
13 MINIUM UNIT SHALL GIVE NOTICE TO THE ASSOCIATION OF CO-OWNERS OF
14 THE COMMENCEMENT OF FORECLOSURE OF THE FIRST MORTGAGE BY ADVER-
15 TISEMENT BY SERVING A COPY OF THE PUBLISHED NOTICE OF FORECLOSURE
16 REQUIRED BY STATUTE UPON THE ASSOCIATION OF CO-OWNERS BY CERTI-
17 FIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE RESIDENT
18 AGENT OF THE ASSOCIATION OF CO-OWNERS AT THE AGENT'S ADDRESS AS
19 SHOWN ON THE RECORDS OF THE MICHIGAN CORPORATION AND SECURITIES
20 BUREAU, OR TO THE ADDRESS THE ASSOCIATION PROVIDES TO THE MORTGA-
21 GEE, IF ANY, IN THOSE CASES WHERE THE ADDRESS IS NOT REGISTERED,
22 WITHIN 10 DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE. THE
23 MORTGAGEE OF A FIRST MORTGAGE OF RECORD OF A CONDOMINIUM UNIT
24 SHALL GIVE NOTICE TO THE ASSOCIATION OF CO-OWNERS OF INTENT TO
25 COMMENCE FORECLOSURE OF THE FIRST MORTGAGE BY JUDICIAL ACTION BY
26 SERVING A NOTICE SETTING FORTH THE NAMES OF THE MORTGAGORS, THE
27 MORTGAGEE, AND THE FORECLOSING ASSIGNEE OF A RECORDED ASSIGNMENT

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1 OF THE MORTGAGE; THE DATE OF THE MORTGAGE AND THE DATE THE
2 MORTGAGE WAS RECORDED; THE AMOUNT CLAIMED TO BE DUE ON THE MORT-
3 GAGE ON THE DATE OF THE NOTICE; AND A DESCRIPTION OF THE MORT-
4 GAGED PREMISES THAT SUBSTANTIALLY CONFORMS WITH THE DESCRIPTION
5 CONTAINED IN THE MORTGAGE UPON THE ASSOCIATION OF CO-OWNERS BY
6 CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED TO THE RESI-
7 DENT AGENT OF THE ASSOCIATION OF CO-OWNERS AT THE AGENT'S ADDRESS
8 AS SHOWN ON THE RECORDS OF THE MICHIGAN CORPORATION AND SECURI-
9 TIES BUREAU, OR TO THE ADDRESS THE ASSOCIATION PROVIDES TO THE
10 MORTGAGEE, IF ANY, IN THOSE CASES WHERE THE ADDRESS IS NOT REGIS-
11 TERED, NOT LESS THAN 10 DAYS BEFORE COMMENCEMENT OF THE JUDICIAL
12 ACTION. FAILURE OF THE MORTGAGEE TO PROVIDE NOTICE AS REQUIRED
13 BY THIS SECTION SHALL ONLY PROVIDE THE ASSOCIATION WITH LEGAL
14 RECOURSE AND WILL NOT, IN ANY EVENT, INVALIDATE ANY FORECLOSURE
15 PROCEEDING BETWEEN A MORTGAGEE AND MORTGAGOR.

16 Sec. 111. (1) Upon the sale or conveyance of a condominium
17 unit, all unpaid assessments, INTEREST, LATE CHARGES, FINES,
18 COSTS, AND ATTORNEY FEES against a condominium unit shall be paid
19 out of the sale price or by the purchaser in preference over any
20 other assessments or charges ~~or~~ OF whatever nature except the
21 following:

22 (a) Amounts due the state, or any subdivision thereof, or
23 any municipality for taxes and special assessments due and unpaid
24 on the condominium unit.

25 (b) Payments due under a first mortgage having priority
26 thereto.

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1 (2) A purchaser or grantee is entitled to a written
2 statement from the association of co-owners setting forth the
3 amount of unpaid assessments, INTEREST, LATE CHARGES, FINES,
4 COSTS, AND ATTORNEY FEES against the seller or grantor and the
5 purchaser or grantee is not liable for, nor is the condominium
6 unit conveyed or granted subject to a lien for any unpaid
7 assessments, INTEREST, LATE CHARGES, FINES, COSTS, AND ATTORNEY
8 FEES against the seller or grantor in excess of the amount set
9 forth in the written statement. Unless the purchaser or grantee
10 requests a written statement from the association of co-owners as
11 provided in this act, at least 5 days before sale, the purchaser
12 or grantee shall be liable for any unpaid assessments against the
13 condominium unit together with interest, costs, FINES, LATE
14 CHARGES, and attorney fees incurred in the collection thereof.

15 Sec. 112. (1) ~~Unless the developer provides to the con-~~
16 ~~trary in the condominium documents, the co-owner, including the~~
17 ~~developer, may rent any number of units at any time, without lim-~~
18 ~~itation as to the term of occupancy.~~ BEFORE THE TRANSITIONAL
19 CONTROL DATE, DURING THE DEVELOPMENT AND SALES PERIOD THE RIGHTS
20 OF A CO-OWNER, INCLUDING THE DEVELOPER, TO RENT ANY NUMBER OF
21 CONDOMINIUM UNITS SHALL BE CONTROLLED BY THE PROVISIONS OF THE
22 CONDOMINIUM DOCUMENTS AS RECORDED BY THE DEVELOPER AND SHALL NOT
23 BE CHANGED WITHOUT DEVELOPER APPROVAL. AFTER THE TRANSITIONAL
24 CONTROL DATE, THE ASSOCIATION OF CO-OWNERS MAY AMEND THE CONDO-
25 MINIMUM DOCUMENTS AS TO THE RENTAL OF CONDOMINIUM UNITS OR TERMS
26 OF OCCUPANCY AS PROVIDED IN SECTION 90(4). THE AMENDMENT SHALL
27 NOT AFFECT THE RIGHTS OF ANY LESSORS OR LESSEES UNDER A WRITTEN

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1 LEASE OTHERWISE IN COMPLIANCE WITH THIS SECTION AND EXECUTED
2 BEFORE THE EFFECTIVE DATE OF THE AMENDMENT, OR CONDOMINIUM UNITS
3 AS LONG AS THEY ARE OWNED OR LEASED BY THE DEVELOPER.

4 (2) A co-owner, including the developer, desiring to rent or
5 lease a condominium unit ~~for a period of longer than 30 consecu-~~
6 ~~tive days,~~ shall disclose that fact in writing to the associa-
7 tion of co-owners at least 10 days before presenting a lease form
8 OR OTHERWISE AGREEING TO GRANT POSSESSION OF A CONDOMINIUM UNIT
9 to a potential lessee —, and at the same time, shall supply the
10 association of co-owners with a copy of the exact lease form for
11 its review for its compliance with the condominium documents. ~~A~~
12 ~~developer proposing to rent condominium units before the transi-~~
13 ~~tional control date shall notify either the advisory committee or~~
14 ~~each co-owner in writing.~~ IF NO LEASE FORM IS TO BE USED, THEN
15 THE CO-OWNER OR DEVELOPER SHALL SUPPLY THE ASSOCIATION OF
16 CO-OWNERS WITH THE NAME AND ADDRESS OF THE POTENTIAL LESSEE,
17 ALONG WITH THE RENTAL AMOUNT AND DUE DATES UNDER THE PROPOSED
18 AGREEMENT.

19 (3) Tenants or nonco-owner occupants shall comply with all
20 of the conditions of the condominium documents of the condominium
21 project, and all leases and rental agreements shall so state.

22 (4) If the association of co-owners determines that the
23 tenant or nonco-owner occupant failed to comply with the condi-
24 tions of the condominium documents, the association of co-owners
25 shall take the following action:

26 (a) The association of co-owners shall notify the co-owner
27 by certified mail, advising of the alleged violation by the

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1 tenant. The co-owner shall have 15 days after receipt of the
2 notice to investigate and correct the alleged breach by the
3 tenant or advise the association of co-owners that a violation
4 has not occurred.

5 (b) If after 15 days the association of co-owners believes
6 that the alleged breach is not cured or may be repeated, it may
7 institute on its behalf or derivatively by the co-owners on
8 behalf of the association of co-owners, if it is under the con-
9 trol of the developer, an action for both eviction against the
10 tenant or nonco-owner occupant and, simultaneously, for money
11 damages against the co-owner and tenant or nonco-owner occupant
12 for breach of the conditions of the condominium documents. The
13 relief provided for in this section may be by summary
14 proceeding. The association of co-owners may hold both the
15 tenant and the co-owner liable for any damages to the general
16 common elements caused by the co-owner or tenant in connection
17 with the condominium unit or condominium project.

18 (5) When a co-owner is in arrearage to the association of
19 co-owners for assessments, the association of co-owners may give
20 written notice of the arrearage to a tenant occupying a
21 co-owner's condominium unit under a lease or rental agreement,
22 and the tenant, after receiving the notice, shall deduct from
23 rental payments due the co-owner the arrearage and future assess-
24 ments as they fall due and pay them to the association of
25 co-owners. The deduction ~~shall~~ DOES not constitute a breach of
26 the rental agreement or lease by the tenant. IF THE TENANT,
27 AFTER BEING NOTIFIED, FAILS OR REFUSES TO REMIT RENT OTHERWISE

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1 DUE THE CO-OWNER TO THE ASSOCIATION OF CO-OWNERS, THEN THE
2 ASSOCIATION OF CO-OWNERS MAY DO THE FOLLOWING:

3 (A) ISSUE A STATUTORY NOTICE TO QUIT FOR NON-PAYMENT OF RENT
4 TO THE TENANT AND SHALL HAVE THE RIGHT TO ENFORCE THAT NOTICE BY
5 SUMMARY PROCEEDING.

6 (B) INITIATE PROCEEDINGS PURSUANT TO SUBSECTION (4)(B).

7 Sec. 113. A developer, RESIDENTIAL BUILDER, or sales agent
8 shall not require that a prospective purchaser of a condominium
9 unit obtain financing from a specific financial institution
10 exclusively.

11 Sec. 132. A ~~mechanic's~~ CONSTRUCTION lien otherwise aris-
12 ing under ~~Act No. 179 of the Public Acts of 1891, being sec-~~
13 ~~tions 570.1 to 570.30 of the Michigan Compiled Laws, shall be~~
14 THE CONSTRUCTION LIEN ACT, 1980 PA 497, MCL 570.1101 TO 570.1305,
15 IS subject to the following limitations:

16 (a) Except as provided in this section, a ~~mechanic's~~
17 CONSTRUCTION lien for work performed upon a condominium unit or
18 upon a limited common element may attach only to the condominium
19 unit upon which the work was performed OR TO WHICH THE LIMITED
20 COMMON ELEMENT IS APPURTENANT.

21 (b) A ~~mechanic's~~ CONSTRUCTION lien for work authorized by
22 the developer, RESIDENTIAL BUILDER, or principal contractor and
23 performed upon the common elements may attach only to condominium
24 units owned by the developer, RESIDENTIAL BUILDER, OR PRINCIPAL
25 CONTRACTOR at the time of recording of the statement of account
26 and lien.

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1 (c) A ~~mechanic's~~ CONSTRUCTION lien for work authorized by
2 the association of co-owners may attach to each condominium unit
3 only to the proportionate extent that the co-owner of the condo-
4 minium unit is required to contribute to the expenses of adminis-
5 tration as provided by the condominium documents.

6 (d) A ~~mechanic's~~ CONSTRUCTION lien may not arise or attach
7 to a condominium unit for work performed on the common elements
8 not contracted by the developer, RESIDENTIAL BUILDER, OR PRINCI-
9 PAL CONTRACTOR or BY the association of co-owners.

10 Sec. 135. (1) As used in this section, "successor
11 developer" means a person who acquires title to the lesser of 10
12 units or 75% of the units in a condominium project, other than a
13 business condominium project, by foreclosure, deed in lieu of
14 foreclosure, purchase, or similar transaction. SUCCESSOR DEVEL-
15 OPER DOES NOT INCLUDE A PERSON THAT IS NOT OBLIGATED TO, OR IN
16 FACT DOES NOT, CONSTRUCT COMMON ELEMENTS.

17 (2) A successor developer shall do both of the following:

18 (a) Comply with this act in the same manner as a developer
19 before selling any units.

20 (b) Except as provided in subsection (3), assume all express
21 written contractual warranty obligations for defects in workman-
22 ship and materials undertaken by its predecessor in title. A
23 successor developer shall not be required to assume, and shall
24 not otherwise be liable for, any other contractual obligations of
25 its predecessor in title.

26 (3) A successor developer shall not be required to comply
27 with subsection (2)(b) with respect to any express written

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1 contractual warranty obligations for defects in workmanship and
2 materials, if either of the following is maintained with respect
3 to units for which such a warranty was undertaken by the prede-
4 cessor in title:

5 (a) An insurance policy, in a form approved by the insurance
6 bureau, that is underwritten by an insurer authorized to do busi-
7 ness in this state. The insurance policy shall provide coverage
8 for express written contractual warranty obligations for liabil-
9 ity for defects in workmanship and materials.

10 (b) An aggregate escrow account with an escrow agent which
11 contains not less than 0.5% of the sales price of each unit. If
12 the escrow account described in this subdivision is initiated by
13 a developer before a successor developer acquires title, 0.5% of
14 the sales price of each unit in the project shall be deposited by
15 the developer in the aggregate escrow account periodically upon
16 the sale of each unit. If the escrow account described in this
17 subdivision is initiated by a successor developer after acquisi-
18 tion of title, a total amount equal to 0.5% of the sales price of
19 all units for which the warranty period plus 6 months has not
20 expired shall be deposited by the successor developer in the
21 aggregate escrow account, and 0.5% of the sales price of each
22 unit shall be deposited by the successor developer in the aggre-
23 gate escrow account periodically upon the sale of each remaining
24 unit. Funds in an escrow account described in this subdivision
25 shall not be released for a unit until 6 months after the expira-
26 tion of the warranty period for that unit.

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1 (4) A successor developer ~~which~~ THAT acquires title to the
2 lesser of 10 business condominium units or 75% of the business
3 condominium units in the condominium project shall not be
4 required to assume, and shall not otherwise be liable for, any
5 contractual obligations of its predecessor in title.

6 SEC. 176. A PERSON SHALL NOT MAINTAIN ANY ACTION AGAINST
7 ANY DEVELOPER, RESIDENTIAL BUILDER, LICENSED ARCHITECT, CONTRAC-
8 TOR, SALES AGENT, OR MANAGER OF A CONDOMINIUM PROJECT ARISING OUT
9 OF THE DEVELOPMENT OR CONSTRUCTION OF THE COMMON ELEMENTS, OR THE
10 MANAGEMENT, OPERATION, OR CONTROL OF A CONDOMINIUM PROJECT, MORE
11 THAN 3 YEARS FROM THE TRANSITIONAL CONTROL DATE OR 2 YEARS FROM
12 THE DATE THE CAUSE OF ACTION ACCRUES, WHICHEVER OCCURS LATER.

13 Enacting section 1. This amendatory act does not take
14 effect unless Senate Bill No. 613 of the 90th Legislature is
15 enacted into law.