

SENATE BILL NO. 612

May 25, 1999, Introduced by Senators BULLARD and STEIL and referred to the Committee on Judiciary.

A bill to amend 1978 PA 59, entitled "Condominium act," by amending sections 3, 6, 10, 45, 47a, 52, 58, 67, 73, 90, 106, 107, 108, 111, 112, 113, 132, and 135 (MCL 559.103, 559.106, 559.110, 559.145, 559.147a, 559.152, 559.158, 559.167, 559.173, 559.190, 559.206, 559.207, 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.

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.

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

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.

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. 45. The developer and its duly authorized agents, rep-
19 resentatives, and employees, AND RESIDENTIAL BUILDERS WHO RECEIVE
20 AN ASSIGNMENT OF RIGHTS FROM THE DEVELOPER, may maintain offices,
21 model units, and other facilities on the submitted land. ~~and~~
22 THE DEVELOPER may include provisions in the condominium documents
23 relative to the facilities as may reasonably facilitate develop-
24 ment and sale of the project. The developer shall PAY OR BE
25 RESPONSIBLE TO REQUIRE A RESIDENTIAL BUILDER TO pay all costs
26 related to the condominium units or common elements while owned

1 by developer ~~—~~ and TO restore the facilities to habitable
2 status upon termination of use.

3 Sec. 47a. (1) A co-owner may make improvements or modifica-
4 tions to the co-owner's condominium unit, including improvements
5 or modifications to common elements and to the route from the
6 public way to the door of the co-owner's condominium unit, at his
7 or her expense, if the purpose of the improvement or modification
8 is to facilitate access to or movement within the unit for per-
9 sons with disabilities, or to alleviate conditions that could be
10 hazardous to persons with disabilities. The improvement or modi-
11 fication shall not impair the structural integrity of a structure
12 or otherwise lessen the support of a portion of the condominium
13 project. The co-owner ~~shall be~~ IS liable for the cost of
14 repairing any damage to a common element caused by building or
15 maintaining the improvement or modification, unless the damage
16 could reasonably be expected in the normal course of building or
17 maintaining the improvement or modification. The improvement or
18 modification may be made notwithstanding prohibitions and
19 restrictions in the condominium documents, but shall comply with
20 all applicable state and local building code requirements and
21 health and safety laws and ordinances and shall be made as
22 closely as reasonably possible in conformity with the intent of
23 applicable prohibitions and restrictions regarding safety and
24 aesthetics of the proposed modification.

25 (2) An improvement or modification allowed by this section
26 that affects the exterior of the condominium unit shall not
27 unreasonably prevent passage by other residents of the

1 condominium project. A co-owner who has made exterior
 2 improvements or modifications allowed by this section shall
 3 notify the association of co-owners in writing of the co-owner's
 4 intention to convey or lease his or her condominium unit to
 5 another ~~, not less than~~ AT LEAST 30 days before the conveyance
 6 or lease. Not more than 30 days after receiving a notice from a
 7 co-owner under this subsection, the association of co-owners may
 8 require ~~that~~ the co-owner TO remove the improvement or modifi-
 9 cation ~~,~~ at the co-owner's expense. If the co-owner fails to
 10 give timely notice of a conveyance or lease, the association of
 11 co-owners at any time may remove or require the co-owner to
 12 remove the improvement or modification ~~,~~ at the co-owner's
 13 expense. However, the association of co-owners may not remove or
 14 require the removal of an improvement or modification if a
 15 co-owner conveys or leases his or her condominium unit to a
 16 person with disabilities who needs the same type of improvement
 17 or modification ~~,~~ or ~~to a person whose parent, spouse, or~~
 18 ~~child is~~ WHO HAS a person ~~with disabilities,~~ RESIDING WITH HIM
 19 OR HER WHO requires the same type of improvement or modification.
 20 ~~, and resides with the person.~~

21 (3) If a co-owner makes an exterior improvement or modifica-
 22 tion allowed under this section, the co-owner shall maintain
 23 liability insurance, underwritten by an insurer authorized to do
 24 business in this state AND NAMING THE ASSOCIATION OF CO-OWNERS AS
 25 AN ADDITIONAL INSURED, in an amount adequate to compensate for
 26 personal injuries caused by the exterior improvement or
 27 modification. ~~, but the~~ THE co-owner ~~shall~~ IS not ~~be~~ liable

1 for acts or omissions of the association of co-owners with
 2 respect to the exterior improvement or modification ~~—~~ and ~~the~~
 3 ~~co-owner shall~~ IS not ~~be~~ required to maintain liability insur-
 4 ance with respect to any common element. The ~~association of~~
 5 ~~co-owners shall be~~ CO-OWNER OF THE UNIT IS responsible for the
 6 cost of any maintenance, REPAIR, OR REPLACEMENT of the improve-
 7 ment or modification. ~~—, unless the maintenance cannot reasonably~~
 8 ~~be included with the regular maintenance performed by or paid for~~
 9 ~~by the association of co-owners, in which case the co-owner shall~~
 10 ~~be responsible for the cost of the maintenance of the improvement~~
 11 ~~or modification.—~~

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

1 If the association of co-owners does not approve or deny
2 submitted plans and specifications within the 60-day period, the
3 co-owner may make the proposed improvement or modification with-
4 out the approval of the association of co-owners. A co-owner may
5 bring an action against the association of co-owners and the
6 officers and directors to compel those persons to comply with
7 this section if the co-owner disagrees with a denial by the asso-
8 ciation of co-owners of the co-owner's proposed improvement or
9 modification.

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

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

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

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

1 advisory committee shall cease to exist when a majority of the
2 board of directors of the association of co-owners is elected by
3 the nondeveloper co-owners.

4 (2) Not later than 120 days after conveyance of legal or
5 equitable title to nondeveloper co-owners of 25% of the units
6 that may be created, at least 1 director and not less than 25% of
7 the board of directors of the association of co-owners shall be
8 elected by nondeveloper co-owners. Not later than 120 days after
9 conveyance of legal or equitable title to nondeveloper co-owners
10 of 50% of the units that may be created, not less than 33-1/3% of
11 the board of directors shall be elected by nondeveloper
12 co-owners. Not later than 120 days after conveyance of legal or
13 equitable title to nondeveloper co-owners of 75% of the units
14 that may be created, and before conveyance of 90% of such units,
15 the nondeveloper co-owners shall elect all directors on the
16 board, except that the developer shall have the right to desig-
17 nate at least 1 director as long as the developer owns and offers
18 for sale at least 10% of the units in the project or as long as
19 10% of the units remain that may be created.

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

1 to elect, as provided in the condominium documents, a number of
2 members of the board equal to the percentage of units which are
3 owned by the developer and for which all assessments are payable
4 by the developer. This election may increase, but ~~shall~~ DOES
5 not reduce, the minimum election and designation rights otherwise
6 established in subsection (2). Application of this subsection
7 does not require a change in the size of the board as determined
8 in the condominium documents.

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

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

1 recorded consolidating master deed shall be provided to the
2 association of co-owners.

3 (6) As used in this section, "units that may be created"
4 means the maximum number of units in all phases of the condomin-
5 ium project as stated in the master deed.

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

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

24 Sec. 67. (1) A change in a condominium project shall be
25 reflected in an amendment to the appropriate condominium
26 document. An amendment TO THE CONDOMINIUM DOCUMENT is subject to
27 sections 90 and 91.

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

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

1 UNDEVELOPED PORTIONS OF THE PROJECT. THE DEVELOPER, ITS
2 SUCCESSORS, AND ASSIGNS OF THE PROPERTY WITHDRAWN SHALL ALSO HAVE
3 VESTED RIGHTS TO COMPLETE CONSTRUCTION OF IMPROVEMENTS ON THE
4 UNDEVELOPED PORTIONS OF THE PROJECT IN THE SAME LOCATION REPRESENTED
5 IN THE SITE PLAN APPROVED BY THE APPROPRIATE GOVERNMENTAL
6 ENTITIES FOR THE PROJECT AND NO GOVERNMENTAL OFFICIALS SHALL HAVE
7 THE AUTHORITY TO IMPOSE ANY CHANGES TO THE SITE PLAN AS PREVIOUSLY
8 APPROVED ON THE UNDEVELOPED PORTIONS OF THE PROJECT WHEN
9 WITHDRAWN FROM THE PROJECT INCLUDING, BUT NOT LIMITED TO, ANY
10 CURRENT SET-BACK OR OTHER SITE OR BUILDING MODIFICATIONS. IF THE
11 DEVELOPER DOES NOT WITHDRAW THE UNDEVELOPED PORTIONS OF THE
12 PROJECT FROM THE PROJECT BEFORE EXPIRATION OF THE TIME PERIODS,
13 SUCH LANDS SHALL REMAIN PART OF THE PROJECT AS GENERAL COMMON
14 ELEMENTS AND ALL RIGHTS TO CONSTRUCT UNITS UPON THAT LAND SHALL
15 CEASE. IN SUCH AN EVENT, IF IT BECOMES NECESSARY TO ADJUST PERCENTAGES
16 OF VALUE AS A RESULT OF FEWER UNITS EXISTING, A CO-OWNER
17 OR THE ASSOCIATION OF CO-OWNERS MAY BRING AN ACTION TO REQUIRE
18 REVISIONS TO THE PERCENTAGES OF VALUE PURSUANT TO SECTION 96.

19 SEC. 72B. (1) A CONDOMINIUM PROJECT MAY BE ESTABLISHED FOR
20 PROPERTY CONSISTING OF A SEPARATE LEGAL PARCEL IN SPACE THAT IS
21 CONSIDERED THE AIR SPACE OVER A FEE, IMPROVED OR UNIMPROVED, IN
22 REAL PROPERTY LAW. SUCH A CONDOMINIUM PROJECT MAY BE PROVIDED
23 EASEMENTS, LICENSES, AND OTHER RIGHTS AS MAY BE NECESSARY TO PROVIDE
24 ACCESS TO AND OTHERWISE SERVE THE NEEDS OF THE PROJECT FROM
25 THE UNDERLYING SURFACE PARCEL.

26 (2) THIS SECTION APPLIES TO ANY QUESTION REGARDING WHETHER
27 ANY AIR SPACE EXISTING OVER A FEE MAY BE SUBMITTED TO, AND

1 ESTABLISHED AS, A CONDOMINIUM UNDER THIS ACT AND APPLIES TO
2 DEVELOPMENT AS A CONDOMINIUM OF AIR SPACE OVER A FEE.

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

5 (2) A master deed shall not be recorded without a certifica-
6 tion by the treasurer collecting the property taxes and special
7 assessments that all property taxes and current installments of
8 special assessments which became a lien on the property involved
9 in the project are paid in full.

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

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

23 Sec. 90. (1) The condominium documents may be amended with-
24 out the consent of co-owners or mortgagees if the amendment does
25 not materially alter or change the rights of a co-owner or mort-
26 gagee ~~—~~ and IF the condominium documents contain a reservation
27 of the right to amend for that purpose to the developer or the

1 association of co-owners. An amendment ~~which~~ THAT does not
2 materially change the rights of a co-owner or mortgagee includes,
3 ~~without limitation~~ BUT IS NOT LIMITED TO, a modification of the
4 types and sizes of unsold condominium units and their appurtenant
5 limited common elements. AN AMENDMENT THAT DOES NOT MATERIALLY
6 CHANGE THE RIGHTS OF A MORTGAGEE FURTHER INCLUDES, BUT IS NOT
7 LIMITED TO, ANY CHANGE IN THE CONDOMINIUM DOCUMENTS THAT, IN THE
8 WRITTEN OPINION OF A LICENSED REAL ESTATE APPRAISER, DOES NOT
9 DETRIMENTALLY CHANGE THE VALUE OF ANY UNIT AFFECTED BY THE
10 CHANGE.

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

26 (3) The developer may reserve, in the condominium documents,
27 the right to amend materially the condominium documents to

1 achieve specified purposes, except a purpose provided for in
2 subsection (4). Reserved rights may not be amended except by or
3 with the consent of the developer. If a proper reservation is
4 made, the condominium documents may be amended to achieve the
5 specified purposes, without the consent of co-owners or
6 mortgagees.

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

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

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

23 (7) A master deed amendment, including the consolidating
24 master deed, dealing with the addition, withdrawal, or modifica-
25 tion of units or other physical characteristics of the project
26 shall comply with the standards prescribed in section 66 for

1 preparation of an original condominium subdivision plan for the
2 project.

3 (8) FOR PURPOSES OF THIS SECTION, THE AFFIRMATIVE VOTE OF A
4 2/3 OF CO-OWNERS IS CONSIDERED 2/3 OF ALL CO-OWNERS ENTITLED TO
5 VOTE AS OF THE RECORD DATE FOR SUCH VOTES.

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

10 (2) THE DATE ON WHICH THE PROPOSED AMENDMENT IS APPROVED BY
11 THE REQUISITE MAJORITY OF CO-OWNERS IS CONSIDERED THE "CONTROL
12 DATE".

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

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

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

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

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

3 (D) A STATEMENT CONTAINING LANGUAGE IN SUBSTANTIALLY THE
4 FORM DESCRIBED IN SUBSECTION (5).

5 (E) A BALLOT PROVIDING SPACES FOR APPROVING OR REJECTING THE
6 AMENDMENT AND A SPACE FOR THE SIGNATURE OF THE MORTGAGEE OR AN
7 OFFICER OF THE MORTGAGEE.

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

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

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

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

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

1 (6) THE ASSOCIATION OF CO-OWNERS SHALL MAIL THE NOTICE
2 REQUIRED BY SUBSECTION (4) TO THE MORTGAGEE AT THE ADDRESS PRO-
3 VIDED IN THE MORTGAGE OR ASSIGNMENT FOR NOTICES BY CERTIFIED
4 MAIL, RETURN RECEIPT REQUESTED, POSTMARKED WITHIN 30 DAYS AFTER
5 THE CONTROL DATE.

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

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

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

1 (A) TERMINATION OF THE CONDOMINIUM PROJECT.

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

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

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

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

18 (F) THE PARTIAL OR COMPLETE MODIFICATION, IMPOSITION, OR
19 REMOVAL OF LEASING RESTRICTIONS FOR CONDOMINIUM UNITS IN THE CON-
20 DOMINIUM PROJECT.

21 Sec. 106. (1) A default by a co-owner shall entitle the
22 association of co-owners to the ~~following~~ relief ~~:-~~ DESCRIBED
23 IN SUBSECTION (2), (3), OR (4).

24 (2) ~~(a)~~ Failure to comply with any of the terms or provi-
25 sions of the condominium documents shall be grounds for relief,
26 which may include without limitations, an action to recover sums

1 due for damages, injunctive relief, foreclosure of lien if
2 default in payment of assessment, or any combination thereof.

3 (3) ~~(b)~~ In a proceeding arising because of an alleged
4 default by a co-owner, the association of co-owners INCLUDING,
5 BUT NOT LIMITED TO, ACTIONS TO FORECLOSE THE ASSOCIATION'S STATU-
6 TORY LIEN BY JUDICIAL ACTION OR ADVERTISEMENT, if successful,
7 ~~may~~ SHALL recover the EXPENSES AND costs of the proceeding and
8 such reasonable ~~attorneys'~~ ATTORNEY fees as ~~may be~~ determined
9 ~~by the court~~ UNDER THIS SECTION. IN DETERMINING IF THE ASSOCI-
10 ATION OF CO-OWNERS IS THE PREVAILING PARTY AND THE AMOUNT OF
11 ATTORNEY FEES, EXPENSES, AND COSTS TO BE RECOVERED, THE FOLLOWING
12 CRITERIA APPLY:

13 (A) IF A PROCEEDING'S FINAL JUDGMENT OR ORDER REASONABLY
14 SHOWS THE PARTIES INTENT TO SETTLE THE CONTROVERSY AND PRECLUDE
15 APPEAL INCLUDING, BUT NOT LIMITED TO, A CONSENT ORDER, CONSENT
16 JUDGMENT, OR ORDER SIGNED BY THE PARTIES AS APPROVED AS TO FORM
17 AND SUBSTANCE, THE ASSOCIATION OF CO-OWNERS IS ENTITLED TO
18 EXPENSES, COSTS, AND REASONABLE ATTORNEY FEES ONLY AS THAT JUDG-
19 MENT OR ORDER PROVIDES. THIS SUBDIVISION DOES NOT PROHIBIT THE
20 RECOVERY OF EXPENSES, COSTS, AND REASONABLE ATTORNEY FEES BY THE
21 ASSOCIATION OF CO-OWNERS FOR LATER PREVAILING IN ENFORCEMENT OF
22 SUCH CONSENT ORDER OR JUDGMENT, EVEN THOUGH IN THE SAME PROCEED-
23 ING, UNLESS THAT ORDER OR JUDGMENT OTHERWISE PROVIDES.

24 (B) THE LACK OF A HEARING ON THE MERITS OF THE PROCEEDING'S
25 SUBJECT MATTER DOES NOT PRECLUDE THE ASSOCIATION OF CO-OWNERS
26 BEING THE PREVAILING PARTY FOR PURPOSES OF RECOVERY OF EXPENSES,
27 COSTS, AND REASONABLE ATTORNEY FEES AS PROVIDED IN THIS SECTION,

1 WHEN SUCH HEARING DOES NOT OCCUR DUE TO CO-OWNER DEFAULT IN THE
2 PROCEEDING; CO-OWNER COMPLIANCE, IN SUBSTANCE, AFTER THE PROCEED-
3 ING WAS BROUGHT WITH THE RELIEF THE ASSOCIATION OF CO-OWNERS
4 SOUGHT; OR MOOTNESS NOT SOLELY DUE TO ACTS BY ASSOCIATION OF
5 CO-OWNERS. IN THE CASE OF MOOTNESS OR COMPLIANCE, THE ASSOCIA-
6 TION OF CO-OWNERS IS ENTITLED TO EXPENSES, COSTS, AND REASONABLE
7 ATTORNEY FEES IF THE COURT DETERMINES THAT THE ASSOCIATION OF
8 CO-OWNERS WAS, BY A PREPONDERANCE OF THE EVIDENCE, LIKELY TO HAVE
9 PREVAILED ABSENT MOOTNESS OR COMPLIANCE.

10 (C) WHERE THE PROCEEDING HAS 2 OR MORE CLAIMS OR COUNTS FOR
11 RELIEF AND EACH CLAIM IS SEPARATE, DISTINCT, AND WOULD SUPPORT AN
12 INDEPENDENT ACTION, AS OPPOSED TO BEING AN ALTERNATIVE THEORY OF
13 LIABILITY FOR THE SAME ALLEGED WRONG, THE ASSOCIATION OF
14 CO-OWNERS SHALL RECOVER EXPENSES, COSTS, AND REASONABLE ATTORNEY
15 FEES ON EACH CLAIM IN WHICH IT IS THE PREVAILING PARTY. IF EACH
16 CLAIM IS NOT SEPARATE AND DISTINCT AND INVOLVES ALTERNATIVE THEO-
17 RIES OF LIABILITY FOR THE SAME ALLEGED WRONG, ALL CLAIMS FOR THAT
18 SAME ALLEGED WRONG SHALL BE CONSIDERED TOGETHER AS A SINGLE CLAIM
19 IN DETERMINING WHETHER THE ASSOCIATION OF CO-OWNERS WAS THE PRE-
20 VAILING PARTY ON THAT GROUP OF CLAIMS. EACH GROUP OF CLAIMS
21 SHALL BE A SINGLE ALLEGED WRONG FOR DETERMINING THE PREVAILING
22 PARTY FOR THAT GROUP.

23 (4) EXPENSES, COSTS, AND REASONABLE ATTORNEY FEES INCLUDE
24 COUNSEL'S REASONABLE UTILIZATION AND SUPERVISION OF AND BILLING
25 FOR PARALEGAL OR CLERICAL PERSONNEL. THE COURT SHALL MAKE
26 EXPRESS FINDINGS OF FACT AND CONCLUSIONS OF LAW CONCERNING WHO
27 WAS THE PREVAILING PARTY AND THE GRANT OR DENIAL OF EXPENSES,

1 COSTS, AND REASONABLE ATTORNEY FEES AND THEIR AMOUNT, IF THESE
2 ARE CONTESTED ISSUES IN THE PROCEEDING.

3 (5) EXPENSES, COSTS, AND REASONABLE ATTORNEY FEES INCLUDE
4 THE EXPENSES, COSTS, AND REASONABLE ATTORNEY FEES EXPENDED TO
5 RECOVER COSTS, EXPENSES, AND REASONABLE ATTORNEY FEES OTHERWISE
6 RECOVERABLE UNDER THIS SUBSECTION.

7 (6) THE LISTING OF SPECIFIC CRITERIA IN THIS SUBSECTION DOES
8 NOT PRECLUDE APPLICATION OF OTHER LAW NOT INCONSISTENT WITH THIS
9 SECTION, ADDRESSING ISSUES NOT COVERED BY SUCH CRITERIA, TO
10 DETERMINE WHETHER THE ASSOCIATION OF CO-OWNERS WAS THE PREVAILING
11 PARTY AND THE AMOUNT OF COSTS, EXPENSES, AND REASONABLE ATTORNEY
12 FEES TO BE RECOVERED.

13 (7) ~~(c)~~ Such other reasonable remedies the condominium
14 documents may provide including but without limitation the levy-
15 ing of fines against co-owners after notice and hearing thereon
16 and the imposition of late charges for non-payment of assessments
17 as provided in the condominium bylaws or rules and regulations of
18 the condominium.

19 Sec. 107. A co-owner may maintain an action against the
20 association of co-owners and its officers and directors to compel
21 these persons to enforce the terms and provisions of the condo-
22 minium documents EITHER BY CO-OWNER'S ACTION, OR BY A CO-OWNER'S
23 AFFIRMATIVE DEFENSE, COUNTERCLAIMS, OR CROSSCLAIMS, AS APPROPRI-
24 ATE, IN AN ASSOCIATION OF CO-OWNERS ACTION AGAINST A CO-OWNER, OR
25 IN ANY OTHER ACTION WHERE THE ASSOCIATION OF CO-OWNERS AND A
26 CO-OWNER ARE BOTH PARTIES. THE ASSOCIATION OF CO-OWNERS, IF
27 PREVAILING AGAINST SUCH A CO-OWNER CLAIM, AFFIRMATIVE DEFENSE,

1 COUNTERCLAIM OR CROSSCLAIM, SHALL RECOVER EXPENSES, COSTS, AND
2 REASONABLE ATTORNEY FEES FROM THE CO-OWNER. THE CRITERIA IN SEC-
3 TION 106(3) THROUGH (6) APPLY IN DETERMINING ENTITLEMENT TO, AND
4 AMOUNT OF, SUCH EXPENSES, COSTS, AND REASONABLE ATTORNEY FEES. A
5 co-owner may maintain an action against any other co-owner for
6 injunctive relief or for damages or any combination thereof for
7 noncompliance with the terms and provisions of the condominium
8 documents or this act.

9 Sec. 108. (1) Sums assessed to a co-owner by the associa-
10 tion of co-owners ~~which~~ THAT are unpaid TOGETHER WITH INTEREST
11 ON SUCH SUMS, COLLECTION AND LATE CHARGES, ADVANCES MADE BY THE
12 ASSOCIATION OF CO-OWNERS FOR TAXES OR OTHER LIENS TO PROTECT ITS
13 LIEN, ATTORNEY FEES, AND FINES IN ACCORDANCE WITH THE CONDOMINIUM
14 DOCUMENTS, constitute a lien upon the unit or units in the
15 project owned by the co-owner at the time of the assessment
16 before other liens except tax liens on the condominium unit in
17 favor of any state or federal taxing authority and sums unpaid on
18 a first mortgage of record except that past due assessments
19 ~~which~~ THAT are evidenced by a notice of lien, recorded as set
20 forth in subsection (3), have priority over a first mortgage
21 recorded subsequent to the recording of the notice of lien. THE
22 LIEN IS ALSO PRIOR TO A FIRST MORTGAGE RECORDED BEFORE THE DATE
23 ON WHICH THE ASSESSMENTS SOUGHT TO BE ENFORCED BECAME DELINQUENT
24 TO THE EXTENT OF ANY ASSESSMENTS LEVIED PURSUANT TO SECTION
25 69(3), BASED ON THE PERIODIC BUDGET ADOPTED BY THE ASSOCIATION OF
26 CO-OWNERS, WHICH WOULD HAVE BECOME DUE, IN THE ABSENCE OF
27 ACCELERATION BEGINNING 6 MONTHS IMMEDIATELY PRECEDING

1 COMMENCEMENT OF FORECLOSURE OF THE LIEN BY AN ACTION OR BY
2 ADVERTISEMENT THROUGH EXPIRATION OF ANY REDEMPTION PERIOD. The
3 lien upon each condominium unit owned by the co-owner shall be in
4 the amount assessed against the condominium unit, plus a propor-
5 tionate share of the total of all other unpaid assessments
6 attributable to condominium units no longer owned by the co-owner
7 but which became due while the co-owner had title to the condo-
8 minium units. The lien may be foreclosed by an action or by
9 advertisement by the association of co-owners in the name of the
10 condominium project on behalf of the other co-owners.

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

20 (3) A foreclosure proceeding may not be commenced without
21 recordation and service of notice of lien in accordance with the
22 following:

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

24 (i) The legal description of the condominium unit or condo-
25 minium units to which the lien attaches.

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

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

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

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

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

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

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

22 (7) A receiver may be appointed in an action for foreclosure
23 of the assessment lien and may be empowered to take possession of
24 the condominium unit, if not occupied by the co-owner and to
25 lease the condominium unit and collect and apply the rental
26 therefrom.

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

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

1 MORTGAGED PREMISES THAT SUBSTANTIALLY CONFORMS WITH THE
2 DESCRIPTION CONTAINED IN THE MORTGAGE UPON THE ASSOCIATION OF
3 CO-OWNERS BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, ADDRESSED
4 TO THE RESIDENT AGENT OF THE ASSOCIATION OF CO-OWNERS AT THE
5 AGENT'S ADDRESS AS SHOWN ON THE RECORDS OF THE MICHIGAN CORPORA-
6 TION AND SECURITIES BUREAU, OR CO-OWNER INVOLVED, IN THOSE CASES
7 WHERE THE ADDRESS IS NOT REGISTERED, NOT LESS THAN 10 DAYS BEFORE
8 COMMENCEMENT OF THE JUDICIAL ACTION.

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

15 (a) Amounts due the state, or any subdivision thereof, or
16 any municipality for taxes and special assessments due and unpaid
17 on the condominium unit.

18 (b) Payments due under a first mortgage having priority
19 thereto.

20 (2) A purchaser or grantee is entitled to a written state-
21 ment from the association of co-owners setting forth the amount
22 of unpaid assessments, INTEREST, LATE CHARGES, FINES, COSTS, AND
23 ATTORNEY FEES against the seller or grantor and the purchaser or
24 grantee is not liable for, nor is the condominium unit conveyed
25 or granted subject to a lien for any unpaid assessments, INTER-
26 EST, LATE CHARGES, FINES, COSTS, AND ATTORNEY FEES against the
27 seller or grantor in excess of the amount set forth in the

1 written statement. Unless the purchaser or grantee requests a
2 written statement from the association of co-owners as provided
3 in this act, at least 5 days before sale, the purchaser or
4 grantee shall be liable for any unpaid assessments against the
5 condominium unit together with interest, costs, FINES, LATE
6 CHARGES, and attorney fees incurred in the collection thereof.

7 Sec. 112. (1) ~~Unless the developer provides to the con-~~
8 ~~trary in the condominium documents, the co-owner, including the~~
9 ~~developer, may rent any number of units at any time, without lim-~~
10 ~~itation as to the term of occupancy.~~ BEFORE THE TRANSITIONAL
11 CONTROL DATE, DURING THE DEVELOPMENT AND SALES PERIOD THE RIGHTS
12 OF A CO-OWNER, INCLUDING THE DEVELOPER, TO RENT ANY NUMBER OF
13 CONDOMINIUM UNITS SHALL BE CONTROLLED BY THE PROVISIONS OF THE
14 CONDOMINIUM DOCUMENTS AS RECORDED BY THE DEVELOPER AND SHALL NOT
15 BE CHANGED WITHOUT DEVELOPER APPROVAL. AFTER THE TRANSITIONAL
16 CONTROL DATE, THE ASSOCIATION OF CO-OWNERS MAY AMEND THE CONDO-
17 MINIUM DOCUMENTS AS TO THE RENTAL OF CONDOMINIUM UNITS OR TERMS
18 OF OCCUPANCY AS PROVIDED IN SECTION 90(4). THE AMENDMENT SHALL
19 NOT AFFECT THE RIGHTS OF ANY LESSORS OR LESSEES UNDER A WRITTEN
20 LEASE OTHERWISE IN COMPLIANCE WITH THIS SECTION AND EXECUTED
21 BEFORE THE EFFECTIVE DATE OF THE AMENDMENT, OR CONDOMINIUM UNITS
22 AS LONG AS THEY ARE OWNED OR LEASED BY THE DEVELOPER.

23 (2) A co-owner, including the developer, desiring to rent or
24 lease a condominium unit ~~for a period of longer than 30 consec-~~
25 ~~tive days,~~ shall disclose that fact in writing to the associa-
26 tion of co-owners at least 10 days before presenting a lease form
27 OR OTHERWISE AGREEING TO GRANT POSSESSION OF A CONDOMINIUM UNIT

1 to a potential lessee ~~—,~~ and at the same time, shall supply the
2 association of co-owners with a copy of the exact lease form for
3 its review for its compliance with the condominium documents. ~~—A~~
4 ~~developer proposing to rent condominium units before the transi-~~
5 ~~tional control date shall notify either the advisory committee or~~
6 ~~each co-owner in writing.~~ IF NO LEASE FORM IS TO BE USED, THEN
7 THE CO-OWNER OR DEVELOPER SHALL SUPPLY THE ASSOCIATION OF
8 CO-OWNERS WITH THE NAME AND ADDRESS OF THE POTENTIAL LESSEE,
9 ALONG WITH THE RENTAL AMOUNT AND DUE DATES UNDER THE PROPOSED
10 AGREEMENT.

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

14 (4) If the association of co-owners determines that the
15 tenant or nonco-owner occupant failed to comply with the condi-
16 tions of the condominium documents, the association of co-owners
17 shall take the following action:

18 (a) The association of co-owners shall notify the co-owner
19 by certified mail, advising of the alleged violation by the
20 tenant. The co-owner shall have 15 days after receipt of the
21 notice to investigate and correct the alleged breach by the
22 tenant or advise the association of co-owners that a violation
23 has not occurred.

24 (b) If after 15 days the association of co-owners believes
25 that the alleged breach is not cured or may be repeated, it may
26 institute on its behalf or derivatively by the co-owners on
27 behalf of the association of co-owners, if it is under the

1 control of the developer, an action for both eviction against the
2 tenant or nonco-owner occupant and, simultaneously, for money
3 damages against the co-owner and tenant or nonco-owner occupant
4 for breach of the conditions of the condominium documents. The
5 relief provided for in this section may be by summary
6 proceeding. The association of co-owners may hold both the
7 tenant and the co-owner liable for any damages to the general
8 common elements caused by the co-owner or tenant in connection
9 with the condominium unit or condominium project.

10 (5) When a co-owner is in arrearage to the association of
11 co-owners for assessments, the association of co-owners may give
12 written notice of the arrearage to a tenant occupying a
13 co-owner's condominium unit under a lease or rental agreement,
14 and the tenant, after receiving the notice, shall deduct from
15 rental payments due the co-owner the arrearage and future assess-
16 ments as they fall due and pay them to the association of
17 co-owners. The deduction ~~shall~~ DOES not constitute a breach of
18 the rental agreement or lease by the tenant. IF THE TENANT,
19 AFTER BEING NOTIFIED, FAILS OR REFUSES TO REMIT RENT OTHERWISE
20 DUE THE CO-OWNER TO THE ASSOCIATION OF CO-OWNERS, THEN THE ASSO-
21 CIATION OF CO-OWNERS MAY DO THE FOLLOWING:

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

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

26 Sec. 113. A developer, RESIDENTIAL BUILDER, or sales agent
27 shall not require that a prospective purchaser of a condominium

1 unit obtain financing from a specific financial institution
2 exclusively.

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

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

13 (b) A ~~mechanic's~~ CONSTRUCTION lien for work authorized by
14 the developer, RESIDENTIAL BUILDER, or principal contractor and
15 performed upon the common elements may attach only to condominium
16 units owned by the developer, RESIDENTIAL BUILDER, OR PRINCIPAL
17 CONTRACTOR at the time of recording of the statement of account
18 and lien.

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

24 (d) A ~~mechanic's~~ CONSTRUCTION lien may not arise or attach
25 to a condominium unit for work performed on the common elements
26 not contracted by the developer, RESIDENTIAL BUILDER, OR
27 PRINCIPAL CONTRACTOR or BY the association of co-owners.

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

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

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

11 (b) Except as provided in subsection (3), assume all express
12 written contractual warranty obligations for defects in workman-
13 ship and materials undertaken by its predecessor in title. A
14 successor developer shall not be required to assume, and shall
15 not otherwise be liable for, any other contractual obligations of
16 its predecessor in title.

17 (3) A successor developer shall not be required to comply
18 with subsection (2)(b) with respect to any express written con-
19 tractual warranty obligations for defects in workmanship and
20 materials, if either of the following is maintained with respect
21 to units for which such a warranty was undertaken by the prede-
22 cessor in title:

23 (a) An insurance policy, in a form approved by the insurance
24 bureau, that is underwritten by an insurer authorized to do busi-
25 ness in this state. The insurance policy shall provide coverage
26 for express written contractual warranty obligations for
27 liability for defects in workmanship and materials.

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

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

23 SEC. 176. A PERSON SHALL NOT MAINTAIN ANY ACTION AGAINST
24 ANY DEVELOPER, RESIDENTIAL BUILDER, LICENSED ARCHITECT, CONTRAC-
25 TOR, SALES AGENT, OR MANAGER OF A CONDOMINIUM PROJECT ARISING OUT
26 OF THE IMPROVEMENT TO REAL PROPERTY INCLUDING, BUT NOT LIMITED
27 TO, THE DEVELOPMENT, CONSTRUCTION, MANAGEMENT, OPERATION OR

1 CONTROL OF A CONDOMINIUM PROJECT, MORE THAN 3 YEARS FROM THE
2 TRANSITIONAL CONTROL DATE OR 2 YEARS FROM THE DATE THE CAUSE OF
3 ACTION ACCRUES, WHICHEVER OCCURS LATER.

4 Enacting section 1. This amendatory act does not take
5 effect unless Senate Bill No. 613
6 of the 90th Legislature is enacted into
7 law.