

Legislative Analysis



ANNUAL AUDIT FOR CONDOMINIUM PROJECTS

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House Bill 4355 as enacted
Public Act 134 of 2013
Sponsor: Rep. Paul Clemente
House Committee: Regulatory Reform
Senate Committee: Regulatory Reform

Second Analysis (4-11-14)

BRIEF SUMMARY: The bill requires condominium associations with annual revenues over \$20,000 to have their books, records, and financial statements independently audited or reviewed annually.

FISCAL IMPACT: The bill does not have fiscal implications for state or local government.

THE APPARENT PROBLEM:

Currently, Section 57 of the Condominium Act (1978 PA 59) requires associations to make their books, records, and contracts concerning the administration and operation of a condominium project available for examination by any of the co-owners and their mortgagees, and all books and records must be independently audited or reviewed each year.

According to testimony, condominium associations have been required to have some sort of audit or review of their books since 1963. The audit requirement is intended to provide a level of consumer protection; situations where association members are required to pay dues or assessments that are controlled by an association board without oversight can lead to abuse and mismanagement of funds.

According to testimony, Section 57 contains outdated language concerning auditing requirements, and the certified public accountants that are generally performing the services have a difficult time figuring out what exactly is required under the statute. Many believe the statute needs to be updated to remove outdated terms, such as "independent" (when referring to the accountants required to perform annual audits and reviews) and "certified." At the request of many certified public accountants, the bill removes outdated language and clarifies the responsibilities of associations under the act.

Under current law, all associations are required to have audits or reviews performed annually. However, not all associations are aware of the requirement, especially some associations that collect minimal dues and have little responsibility for the upkeep of facilities and property. To address that issue, the bill would only require annual reviews and audits for associations with over \$20,000 of annual revenue.

THE CONTENT OF THE BILL:

The books, records, and contracts concerning the administration and operation of a condominium project are required to be made available for examination by any of the co-owners and their mortgagees, and all books and records must be independently audited or reviewed annually.

House Bill 4355 continues to make books, records, and contracts open for examination but eliminates the general requirement for an annual audit and instead requires associations of co-owners with annual revenues greater than \$20,000 to have their books, records, and financial statements independently audited or reviewed each year by a certified public accountant. Audits or reviews must be performed in accordance with the statements on auditing standards or the statements on standards for accounting and review services of the American Institute of Certified Public Accountants.

Associations of co-owners could opt out of the annual audit requirements on an annual basis by an affirmative vote of a majority of its members by any means permitted under an association's bylaws.

MCL 559.157

ARGUMENTS:

For:

According to financial professionals, the act contains outdated language for accounting services which results in financial professionals having difficulty in determining what is required under the act. The bill would remove outdated language, including the use of "independent accountants" and "certified audit results." According to testimony, this should provide clarity moving forward. The bill would also require audits and reviews to be conducted in accordance with the standards set forth by the American Institute of Certified Public Accountants.

For:

Previously under the act, all condominium associations were required to perform annual audits or reviews of their books. However, many associations, especially those with little revenue coming in, were unaware of the audit requirement and were currently operating in violation of the law. Under the bill as enacted, only associations that generate over \$20,000 of annual revenue are subject to the auditing requirements. The bill would also allow any association to opt-out from the audit requirements through a vote of its members.

Legislative Analyst: Jeff Stoutenburg

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.