

# Legislative Analysis

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## ANNUAL AUDIT FOR CONDOMINIUM PROJECTS

Mary Ann Cleary, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4355 (Substitute H-3)**  
**Sponsor: Rep. Paul Clemente**  
**Committee: Regulatory Reform**

### First Analysis (6-3-13)

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

**FISCAL IMPACT:** A fiscal analysis is in process.

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According to testimony, Section 57 contains outdated language concerning auditing requirements and the certified public accountants that are generally performing the services have a difficult time figuring out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 Many believe the statute needs to be updated to remove outdated terms, such as "independent" (when referring to the accountants required to perform annual audits and reviews) and "certified." At the request of many certified public accountants, the bill removes outdated language and clarifies the responsibilities of associations under the act.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

Currently, 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 (H-3) would continue to make books, records, and contracts open for examination but eliminate the required annual audit, and instead require 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 would have to 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 would be able to opt out of the annual audit requirements on an annual basis by an affirmative vote held in accordance with an association's bylaws.

The bill would take effect 90 days after being enacted into law.

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:***

Currently, under the act, all condominium associations are required to perform annual audits or reviews of their books. However, many associations, especially those with little revenue coming in, are unaware of the audit requirement and are currently operating in violation of the law. The bill seeks to establish a threshold of \$20,000 for the audit requirements to kick in. Under the bill as reported, 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.

***Against:***

There was no opposition to the bill as reported from committee.

***POSITIONS:***

The Community Association Institute supports the bill. (5-14-13)

The Michigan Association of Certified Public Accountants supports the bill. (5-7-13)

The Real Property Law Section of the State Bar of Michigan supports the bill. (5-7-13)

Legislative Analyst: Jeff Stoutenburg  
Fiscal Analyst: Paul Holland

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■ 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.