

Legislative Analysis



REVISE CONDOMINIUM ACT

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Senate Bill 309 (H-1) as reported from committee

Sponsor: Sen. Jim Stamas

House Committee: Local Government

Senate Committee: Local Government

Complete to 10-8-15

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 170 of 2015)

BRIEF SUMMARY: The bill, among other things, would require condominium subdivision plans to be prepared by licensed surveyors, architects, and engineers; and require that the project's survey plans be signed and sealed by the licensed professional surveyor who prepares the boundary survey for the project.

FISCAL IMPACT: There is no significant fiscal impact on the state or local units of government.

THE APPARENT PROBLEM:

The Michigan Condominium Act requires that a condominium subdivision plan be prepared for each condominium project, and that it bear the signature and seal of an architect, surveyor, or engineer.

However, according to committee testimony, since the act does not use the specific occupational titles of "licensed architect," "professional surveyor," and "professional engineer," unlicensed individuals other than these professionals have sometimes signed-off on condominium subdivision plans.

Legislation has been introduced to, among other things, include within the Condominium Act the same official titles that are now defined within the Michigan Occupational Code.

THE CONTENT OF THE BILL:

The bill would amend the Condominium Act to do the following:

- Require condominium subdivision plans to be prepared by licensed professionals.
- Require a condominium subdivision plan's cover sheet to contain a notice about detailed project design plans and a list of documents included in the subdivision plan.
- Delete a requirement that a condominium subdivision plan contain the volume of each unit's enclosed air space.
- Require a condominium subdivision plan's survey plan to be signed and sealed by the licensed professional surveyor preparing the boundary survey for the project.

Michigan's Condominium Act requires the condominium subdivision plan for each condominium project to be prepared by an architect, surveyor, or engineer, and requires the plan to bear the signature and seal of the architect, surveyor, or engineer. Instead, Senate

Bill 309 (H-1) specifies that the condominium subdivision plan would have to be prepared by a *licensed professional architect, licensed professional surveyor, or licensed professional engineer*.

Now under the law, a complete condominium subdivision plan must include certain items specified in the act, including a cover sheet and a survey plan. Senate Bill 309 (H-1) requires that the cover sheet list all documents included in the condominium subdivision plan. Further, the cover sheet would have to contain a notice that the plan did not contain project design plans. Under the bill, that notice would be required to read substantially as follows:

This condominium subdivision plan is not required to contain detailed project design plans prepared by the appropriate licensed design professional. Such project design plans are filed, as part of the construction permit application, with the enforcing agency for the state construction code in the relevant governmental subdivision. The enforcing agency may be a local building department or the state department of licensing and regulatory affairs.

The Condominium Act also requires the condominium subdivision plan to include the vertical boundaries and volume for each dwelling unit, comprising the enclosed air space. Senate Bill 309 would eliminate the requirement that volume be included.

The bill would take effect 90 days after its enactment.

MCL 559.166

HOUSE COMMITTEE ACTION:

The House Local Government Committee reported out an H-1 substitute of the Senate-passed version of Senate Bill 309. The substitute changes the bill by adding the adjective "licensed" before the terms '*professional surveyor*,' '*professional engineer*,' and '*professional surveyor*.'

ARGUMENTS:

For:

Proponents of the bill argue that the use of official titles—rather than merely "architectural, surveying, or engineering professional"—would ensure that licensed professionals in those fields prepare the subdivision plans for condominium projects. According to committee testimony, because the statute does not include official titles, unlicensed people sometimes sign-off on condominium plans.

To protect the integrity of condominium projects, the law should clearly state that licensed professionals must prepare the plans. For example, since the condominium subdivision plan must contain a survey plan, the act should specifically require that the licensed

professional surveyor who prepared the boundary survey for the project sign and seal the survey plan.

For:

Those who support the bill point out that a condominium subdivision plan is not the same as an architectural or infrastructure design plan for the housing project. The design plans are much more technical and detailed than a subdivision plan.

To ensure that consumers who might be interested in purchasing a condominium unit are aware of the difference in the plans, professional surveyors have recommended that the cover sheet for a condominium subdivision plan be required to explicitly state that *design plans are not included*, but that they are available from the local or state agency responsible for enforcing the State Construction Code in the area where the condominium project is located. The bill would add this requirement.

Finally, a condominium subdivision plan currently must include the size, location, area, and horizontal boundaries of each condominium unit, as well as the vertical boundaries and *volume for each unit of enclosed airspace*. Requiring the plan to include the volume of each unit apparently has caused some confusion. This specific information, which would no longer be required under the bill, is not needed because the plan already requires the other area measurements.

POSITIONS:

The Michigan Society of Professional Surveyors supports the bill. (9-9-15)

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