

## CONDOMINIUM LAWSUITS

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**House Bill 4919 reported as Substitute H-2**

**Sponsor: Rep. Klint Kesto**

**Committee: Judiciary**

**Complete to 12-12-16**

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

### SUMMARY:

The bill allows both the association of co-owners and the board of directors of a condominium association to assert, defend, or settle lawsuits on behalf of all co-owners in connection with the common elements or the enforcement of the condominium documents; prohibits, with some exceptions, certain restrictions being placed on the board of directors; and voids any provision in the condominium documents or articles of incorporation that contradicts the bill's provisions.

Under the Condominium Act, actions on behalf of and against the co-owners must be brought in the name of the association of co-owners, with the association able to assert, defend, or settle claims on behalf of all co-owners in connection with the condominium project. Typically, condominium documents or articles of incorporation require that two-thirds of the association members approve litigation.

House Bill 4919 amends the Condominium Act. Under the bill, both the association of co-owners and the board of directors may assert, defend, or settle claims on behalf of all co-owners in connection with the common elements or the enforcement of the condominium documents.

Further, the bill adds, with some exceptions, that the association's articles of incorporation and condominium documents cannot restrict the powers granted to the board by the bill. Any provision in the articles or document that requires a vote of the co-owners to authorize the board to incur legal fees and costs in the exercise of the power granted under the bill, or that otherwise seeks to restrict that power, will be void.

The condominium documents may require the board of directors to obtain approval by a vote of the co-owners to initiate litigation against a developer or successor developer for money damages. However, the documents could not require approval by more than two-thirds of all co-owners that are entitled to vote for the initiation of such litigation.

Any provision in the condominium documents or articles of incorporation for an association of co-owners that contradicts the above provisions will be void unless:

- The provision existed before the bill's effective date;
- Within six months of the bill's effective date, the continuation of the provision is approved by a vote of two-thirds of the co-owners entitled to vote; and,

- A declaration evidencing the results of the vote under the above provision is recorded.

In addition, the bill amends two other provisions in the act to comport with the new language.

The bill takes effect 90 days after enactment.

MCL 559.160, 559.207, and 559.215

**FISCAL IMPACT:**

The bill would not have a fiscal impact on units of state or local government.

**POSITIONS:**

Representatives of the Community Association Institute testified in support of the bill. (12-6-16)

A representative of The Meisner Law Group, P.C. testified in support of the introduced version of the bill and submitted written testimony opposing the bill as substituted. (12-6-16)

Legislative Analyst: Susan Stutzky  
Fiscal Analyst: Marcus Coffin

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