

HOUSE BILL No. 5319

February 12, 2014, Introduced by Reps. McCready, Callton, Glardon, Denby, Rogers, Dianda, O'Brien, Kowall, Schmidt and Kosowski and referred to the Committee on Local Government.

A bill to amend 1978 PA 59, entitled
"Condominium act,"
by amending section 52 (MCL 559.152), as amended by 2000 PA 379.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 52. (1) An advisory committee of nondeveloper co-owners
2 shall be established either 120 days after conveyance of legal or
3 equitable title to nondeveloper co-owners of 1/3 of the units that
4 may be created or 1 year after the initial conveyance of legal or
5 equitable title to a nondeveloper co-owner of a unit in the
6 project, whichever occurs first. The advisory committee shall meet
7 with the condominium project board of directors for the purpose of
8 facilitating communication and aiding the transition of control to
9 the association of co-owners. The advisory committee shall cease to
10 exist when a majority of the board of directors of the association
11 of co-owners is elected by the nondeveloper co-owners.

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

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

1 are payable by the developer. This election may increase, but does
2 not reduce, the minimum election and designation rights otherwise
3 established in subsection (2). Application of this subsection does
4 not require a change in the size of the board as determined in the
5 condominium documents.

6 (4) If the calculation of the percentage of members of the
7 board that the nondeveloper co-owners have the right to elect under
8 subsection (2), or if the product of the number of members of the
9 board multiplied by the percentage of units held by the
10 nondeveloper co-owners under subsection (3) results in a right of
11 nondeveloper co-owners to elect a fractional number of members of
12 the board, then a fractional election right of 0.5 or greater shall
13 be rounded up to the nearest whole number, which number shall be
14 the number of members of the board that the nondeveloper co-owners
15 have the right to elect. After application of the formula contained
16 in this subsection, the developer ~~has the right to~~ **MAY** elect the
17 remaining members of the board. Application of this subsection does
18 not eliminate the right of the developer to designate 1 member as
19 provided in subsection (2).

20 (5) **AN INDIVIDUAL IS NOT ELIGIBLE TO BE ELECTED TO THE BOARD**
21 **OF DIRECTORS BY NONDEVELOPER CO-OWNERS UNLESS THE INDIVIDUAL**
22 **CERTIFIES IN WRITING THAT HE OR SHE IS FAMILIAR WITH THIS ACT AND**
23 **HAS READ THE CONDOMINIUM BYLAWS.**

24 (6) ~~(5)~~—A consolidating master deed and plans showing the
25 condominium as built shall be recorded not later than 1 year after
26 completion of construction, ~~in order to~~ consolidate all phases or
27 amendments of a condominium project. A copy of the recorded

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

3 (7) ~~(6)~~—As used in this section, "units that may be created"
4 means the maximum number of units in all phases of the condominium
5 project as stated in the master deed.

6 (8) ~~(7)~~—For purposes of calculating the timing of events
7 described in this section, conveyance by a developer to a
8 residential builder, even though not an affiliate of the developer,
9 is not considered a sale to a nondeveloper co-owner until ~~such time~~
10 ~~as~~ the residential builder conveys that unit with a completed
11 residence on it or until ~~it~~ **THE UNIT** contains a completed residence
12 ~~which~~ **THAT** is occupied.