

HOUSE BILL No. 4446

March 30, 2017, Introduced by Rep. Kesto and referred to the Committee on Judiciary.

A bill to amend 1978 PA 59, entitled
"Condominium act,"
by amending sections 60, 107, and 115 (MCL 559.160, 559.207, and
559.215), section 107 as amended by 2000 PA 379 and section 115 as
amended by 1982 PA 538.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 60. **(1)** Actions on behalf of and against the co-owners
2 shall be brought in the name of the association of co-owners. The
3 association of co-owners may assert, defend, or settle claims on
4 behalf of all co-owners in connection with the common elements **OR**
5 **THE ENFORCEMENT** of the condominium ~~project~~-**DOCUMENTS**.

6 **(2) THE BOARD OF DIRECTORS OF AN ASSOCIATION OF CO-OWNERS MAY**
7 **ASSERT, DEFEND, OR SETTLE CLAIMS ON BEHALF OF ALL CO-OWNERS IN**

1 CONNECTION WITH THE COMMON ELEMENTS OR THE ENFORCEMENT OF THE
2 CONDOMINIUM DOCUMENTS.

3 (3) THE ARTICLES OF INCORPORATION FOR AN ASSOCIATION OF CO-
4 OWNERS AND THE CONDOMINIUM DOCUMENTS SHALL NOT RESTRICT THE POWER
5 OF THE BOARD OF DIRECTORS GRANTED UNDER SUBSECTION (2). ANY
6 PROVISION IN THE ARTICLES OF INCORPORATION OR THE CONDOMINIUM
7 DOCUMENTS THAT REQUIRES A VOTE OF THE CO-OWNERS TO AUTHORIZE THE
8 BOARD OF DIRECTORS OF AN ASSOCIATION OF CO-OWNERS TO INCUR LEGAL
9 FEES AND COSTS IN THE EXERCISE OF THE POWER GRANTED UNDER
10 SUBSECTION (2) OR THAT OTHERWISE RESTRICTS THAT POWER IS VOID.

11 (4) NOTWITHSTANDING SUBSECTIONS (2) AND (3), THE CONDOMINIUM
12 DOCUMENTS MAY REQUIRE THE BOARD OF DIRECTORS TO OBTAIN APPROVAL BY
13 A VOTE OF THE CO-OWNERS TO INITIATE LITIGATION AGAINST A DEVELOPER
14 OR SUCCESSOR DEVELOPER FOR MONEY DAMAGES. HOWEVER, THE CONDOMINIUM
15 DOCUMENTS SHALL NOT REQUIRE APPROVAL BY MORE THAN 2/3 OF ALL CO-
16 OWNERS THAT ARE ENTITLED TO VOTE FOR THE INITIATION OF SUCH
17 LITIGATION.

18 (5) ANY PROVISION IN THE CONDOMINIUM DOCUMENTS OR ARTICLES OF
19 INCORPORATION FOR AN ASSOCIATION OF CO-OWNERS THAT CONTRADICTS
20 SUBSECTION (3) OR (4) IS VOID UNLESS ALL OF THE FOLLOWING APPLY:

21 (A) THE PROVISION EXISTED BEFORE THE EFFECTIVE DATE OF THE
22 AMENDATORY ACT THAT ADDED THIS SUBSECTION.

23 (B) WITHIN 6 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
24 ACT THAT ADDED THIS SUBSECTION, THE CONTINUATION OF THE PROVISION
25 IS APPROVED BY A VOTE OF 2/3 OF THE CO-OWNERS ENTITLED TO VOTE.

26 (C) A DECLARATION EVIDENCING THE RESULTS OF THE VOTE UNDER
27 SUBDIVISION (B) IS RECORDED.

1 Sec. 107. ~~A~~**SUBJECT TO SECTION 60**, A co-owner may maintain an
2 action against the association of co-owners ~~and its officers and~~
3 ~~directors to compel these persons to enforce~~**THE ENFORCEMENT OF** the
4 terms and provisions of the condominium documents. In such a
5 proceeding, the association of co-owners or the co-owner, if
6 successful, shall recover the costs of the proceeding and
7 reasonable attorney fees, as determined by the court, to the extent
8 that the condominium documents expressly so provide. A co-owner may
9 maintain an action against any other co-owner for injunctive relief
10 or for damages or any combination thereof for noncompliance with
11 the terms and provisions of the condominium documents or this act.

12 Sec. 115. (1) A person or, **SUBJECT TO SECTION 60**, association
13 of co-owners adversely affected by a violation of or failure to
14 comply with this act, rules promulgated under this act, or any
15 provision of an agreement or a master deed may bring an action for
16 relief in a court of competent jurisdiction. The court may award
17 costs to the prevailing party.

18 (2) A developer who offers or sells a condominium unit in
19 violation of section 21 or 84a is liable to the person purchasing
20 the condominium unit for damages.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.