

**SUBSTITUTE FOR
HOUSE BILL NO. 5486**

A bill to amend 1978 PA 59, entitled "Condominium act," by amending sections 58, 67, 69, 71, 90, 90a, 108, 112, 135, 173, and 176 (MCL 559.158, 559.167, 559.169, 559.171, 559.190, 559.190a, 559.208, 559.212, 559.235, 559.273, and 559.276), sections 58, 67, 69, 90, 108, 112, and 135 as amended and sections 90a and 176 as added by 2000 PA 379, section 71 as amended by 1982 PA 538, and section 173 as amended by 1983 PA 113; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 58. If the mortgagee of a first mortgage of record or
2 other purchaser of a condominium unit obtains title to the condo-
3 minium unit as a result of foreclosure of the first mortgage,
4 ~~such person, its successors,~~ THAT MORTGAGEE OR PURCHASER AND
5 HIS OR HER SUCCESSORS and assigns are not liable for the

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1 assessments by the administering body chargeable to the unit that
2 became due prior to the acquisition of title to the unit by ~~such~~
3 ~~person except for assessments that have priority over the first~~
4 ~~mortgage under section 108~~ THAT MORTGAGEE OR PURCHASER AND HIS
5 OR HER SUCCESSORS AND ASSIGNS.

6 Sec. 67. (1) A change in a condominium project shall be
7 reflected in an amendment to the appropriate condominium
8 document. An amendment to the condominium document is subject to
9 sections 90, 90A, and 91.

10 (2) If a change involves a change in the boundaries of a
11 condominium unit or the addition or elimination of condominium
12 units, a replat of the condominium subdivision plan shall be pre-
13 pared and recorded assigning a condominium unit number to each
14 condominium unit in the amended project. The replat of the con-
15 dominium subdivision plan shall be designated replat number
16 _____ of _____ county condominium subdivision plan
17 number _____, using the same plan number assigned to the
18 original condominium subdivision plan.

19 (3) Notwithstanding section 33, if the developer has not
20 completed development and construction of UNITS OR IMPROVEMENTS
21 IN the ~~entire~~ condominium project, ~~including proposed improve-~~
22 ~~ments whether identified as "must be built" or~~ THAT ARE IDENTI-
23 FIED AS "need not be built", during a period ending 10 years
24 ~~from~~ AFTER the date of commencement of construction by the
25 developer of the project, the developer, its successors, or
26 assigns have the right to withdraw from the project all
27 undeveloped portions of the project NOT IDENTIFIED AS "MUST BE

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1 BUILT" without the prior consent of any co-owners, mortgagees of
2 units in the project, or any other party having an interest in
3 the project. If the master deed contains provisions permitting
4 the expansion, contraction, or rights of convertibility of units
5 or common elements in the condominium project, then the time
6 period is 6 years ~~from~~ AFTER the date the developer exercised
7 its rights with respect to either expansion, contraction, or
8 rights of convertibility, whichever right was exercised last.
9 The undeveloped portions of the project withdrawn shall also
10 automatically be granted easements for utility and access pur-
11 poses through the condominium project for the benefit of the
12 undeveloped portions of the project. If the developer does not
13 withdraw the undeveloped portions of the project from the project
14 before expiration of the time periods, ~~such~~ THOSE UNDEVELOPED
15 lands shall remain part of the project as general common elements
16 and all rights to construct units upon that land shall cease. In
17 such an event, if it becomes necessary to adjust percentages of
18 value as a result of fewer units existing, a co-owner or the
19 association of co-owners may bring an action to require revisions
20 to the percentages of value ~~pursuant to section 96~~ UNDER SEC-
21 TION 95.

22 Sec. 69. (1) Except to the extent that the condominium doc-
23 uments provide otherwise, common expenses associated with the
24 maintenance, repair, renovation, restoration, or replacement of a
25 limited common element shall be specially assessed against the
26 condominium unit to which that limited common element was
27 assigned at the time the expenses were incurred. If the limited

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1 common element involved was assigned to more than 1 condominium
2 unit, the expenses shall be specially assessed against each of
3 the condominium units equally so that the total of the special
4 assessments equals the total of the expenses, except to the
5 extent that the condominium documents provide otherwise.

6 (2) To the extent that the condominium documents expressly
7 so provide, any other unusual common expenses benefiting less
8 than all of the condominium units, or any expenses incurred as a
9 result of the conduct of less than all those entitled to occupy
10 the condominium project or by their licensees or invitees, shall
11 be specially assessed against the condominium unit or condominium
12 units involved, in accordance with reasonable provisions as the
13 condominium documents may provide.

14 (3) The amount of all common expenses not specially assessed
15 ~~pursuant to~~ UNDER subsections (1) and (2) shall be assessed
16 against the condominium units in proportion to the percentages of
17 value or other ~~formula stated~~ PROVISIONS AS MAY BE CONTAINED in
18 the master deed for apportionment of expenses of administration.

19 (4) A co-owner shall not be exempt from contributing as pro-
20 vided in this act by nonuse or waiver of the use of any of the
21 common elements or by abandonment of his or her condominium
22 unit.

23 Sec. 71. Not less than 10 days before taking reservations
24 under a preliminary reservation agreement for a unit in a condo-
25 minium project, recording a master deed for a project, or begin-
26 ning construction of a project which is intended to be a
27 condominium project at the time construction is begun, whichever

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1 is earliest, a written notice of the proposed action shall be
2 provided to each of the following:

3 (a) The appropriate city, village, township, or county.

4 (b) The appropriate county road commission and county drain
5 commissioner.

6 ~~(c) The administrator.~~

7 (C) ~~(d) The department of natural resources~~

8 ENVIRONMENTAL QUALITY.

9 ~~(e) The department of public health.~~

10 (D) ~~(f) The state transportation department.~~

11 Sec. 90. (1) The condominium documents may be amended with-
12 out the consent of co-owners or mortgagees if the amendment does
13 not materially alter or change the rights of a co-owner or mort-
14 gagee and if the condominium documents contain a reservation of
15 the right to amend for that purpose to the developer or the asso-
16 ciation of co-owners. An amendment that does not materially
17 change the rights of a co-owner or mortgagee includes, but is not
18 limited to, a modification of the types and sizes of unsold con-
19 dominium units and their appurtenant limited common elements.
20 ~~An amendment that does not materially change the rights of a~~
21 ~~mortgagee further includes, but is not limited to, any change in~~
22 ~~the condominium documents that, in the written opinion of an~~
23 ~~appropriately licensed real estate appraiser, does not detrimen-~~
24 ~~tally change the value of any unit affected by the change.~~

25 (2) Except as provided in this section, the master deed,
26 bylaws, and condominium subdivision plan may be amended, even if
27 the amendment will materially alter or change the rights of the

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1 co-owners or mortgagees, with the consent of not less than 2/3 of
2 the votes of the co-owners and mortgagees. A mortgagee shall
3 have 1 vote for each mortgage held. The 2/3 majority required in
4 this section may not be increased by the terms of the condominium
5 documents, and a provision in any condominium documents that
6 requires the consent of a greater proportion of co-owners or
7 mortgagees for the purposes described in this subsection is void
8 and is superseded by this subsection. Mortgagees are not
9 required to appear at any meeting of co-owners except that their
10 approval shall be solicited through written ballots. Any mortga-
11 gee ballots not returned within 90 days of mailing shall be
12 counted as approval for the change.

13 (3) The developer may reserve, in the condominium documents,
14 the right to amend materially the condominium documents to
15 achieve specified purposes, except a purpose provided for in sub-
16 section (4). Reserved rights ~~may~~ SHALL not be amended except
17 by or with the consent of the developer. If a proper reservation
18 is made, the condominium documents may be amended to achieve the
19 specified purposes ~~,~~ without the consent of co-owners or
20 mortgagees.

21 (4) The method or formula used to determine the percentage
22 of value of units in the project for other than voting purposes
23 ~~, and any provisions relating to the ability or terms under~~
24 ~~which a co-owner may rent a unit, may~~ SHALL not be modified
25 without the consent of each affected co-owner and mortgagee. A
26 co-owner's condominium unit dimensions or appurtenant limited

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1 common elements may not be modified without the co-owner's
2 consent.

3 (5) Co-owners shall be notified of proposed amendments ~~—~~
4 under this section ~~—~~ not less than 10 days before the amendment
5 is recorded.

6 (6) A person causing or requesting an amendment to the con-
7 dominium documents shall be responsible for costs and expenses of
8 the amendment, except for amendments based upon a vote of a pre-
9 scribed majority of co-owners and mortgagees or based upon the
10 advisory committee's decision, the costs of which are expenses of
11 administration.

12 (7) A master deed amendment, including the consolidating
13 master deed, dealing with the addition, withdrawal, or modifica-
14 tion of units or other physical characteristics of the project
15 shall comply with the standards prescribed in section 66 for
16 preparation of an original condominium subdivision plan for the
17 project.

18 (8) For purposes of this section, the affirmative vote of a
19 2/3 of co-owners is considered 2/3 of all co-owners entitled to
20 vote as of the record date for such votes.

21 Sec. 90a. (1) To the extent this act or the condominium
22 documents require a vote of mortgagees of units on amendment of
23 the condominium documents, the procedure described in this sec-
24 tion applies.

25 (2) The date on which the proposed amendment is approved by
26 the requisite majority of co-owners is considered the "control
27 date".

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1 (3) Only those mortgagees who hold a ~~duly~~ recorded FIRST
2 mortgage or a ~~duly~~ recorded assignment of a FIRST mortgage
3 against 1 or more condominium units in the condominium project on
4 the control date ~~is~~ ARE entitled to vote on the amendment.
5 Each mortgagee entitled to vote shall have 1 vote for each condo-
6 minium unit in the project that is subject to its mortgage or
7 mortgages, without regard to how many mortgages the mortgagee may
8 hold on a particular condominium unit.

9 (4) The association of co-owners shall give a notice to each
10 mortgagee entitled to vote containing all of the following:

11 (a) A copy of the amendment or amendments as passed by the
12 co-owners.

13 (b) A statement of the date that the amendment was approved
14 by the requisite majority of co-owners.

15 (c) An envelope addressed to the entity authorized by the
16 board of directors for tabulating mortgagee votes.

17 (d) A statement containing language in substantially the
18 form described in subsection (5).

19 (e) A ballot providing spaces for approving or rejecting the
20 amendment and a space for the signature of the mortgagee or an
21 officer of the mortgagee.

22 (f) A statement of the number of condominium units subject
23 to the mortgage or mortgages of the mortgagee.

24 (g) The date by which the mortgagee must return its ballot.

25 (5) The notice provided by subsection (4) shall contain a
26 statement in substantially the following form:

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1 "A review of the association records reveals that you are
2 the holder of 1 or more mortgages recorded against title to 1 or
3 more units in the (name of project) condominium. The co-owners
4 of the condominium adopted the attached amendment to the condo-
5 minium documents on (control date). Pursuant to the terms of the
6 condominium documents and/or the Michigan condominium act, you
7 are entitled to vote on the amendment. You have 1 vote for each
8 unit that is subject to your mortgage or mortgages.

9 The amendment will be considered approved by FIRST mortga-
10 gees if it is approved by 66-2/3% of ~~the~~ THOSE mortgagees. In
11 order to vote, you must indicate your approval or rejection on
12 the enclosed ballot, sign it, and return it not later than 90
13 days ~~from (the control date)~~ AFTER THIS NOTICE (WHICH DATE
14 COINCIDES WITH THE DATE OF MAILING). Failure to timely return a
15 ballot will constitute a vote for approval. If you oppose the
16 amendment, you must vote against it."

17 ~~(6) The association of co-owners shall mail the notice~~
18 ~~required by subsection (4) to the mortgagee at the address pro-~~
19 ~~vided in the mortgage or assignment for notices by certified~~
20 ~~mail, return receipt requested, postmarked within 30 days after~~
21 ~~the control date.~~

22 (6) ~~(7)~~ The amendment is considered to be approved by the
23 FIRST mortgagees if it is approved by 66-2/3% of the FIRST mort-
24 gagees whose ballots are received, or are considered to be
25 received, in accordance with section 90(2), by the entity autho-
26 rized by the board of directors to tabulate mortgagee votes. ~~not~~
27 ~~later than 100 days after the control date. In determining the~~

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1 ~~100 days, the control date itself shall not be counted but the~~
2 ~~one-hundredth day shall be included unless the one-hundredth day~~
3 ~~is a Saturday, Sunday, legal holiday, or holiday on which the~~
4 ~~United States postal service does not regularly deliver mail, in~~
5 ~~which case the last day of the 100 days shall be the next day~~
6 ~~that is not a Saturday, Sunday, legal holiday, or holiday on~~
7 ~~which the United States postal service does not regularly deliver~~
8 ~~mail.~~

9 (7) THE ASSOCIATION OF CO-OWNERS SHALL MAIL THE NOTICE
10 REQUIRED UNDER SUBSECTION (4) TO THE FIRST MORTGAGEE AT THE
11 ADDRESS PROVIDED IN THE MORTGAGE OR ASSIGNMENT FOR NOTICES.

12 (8) The association of co-owners shall maintain a copy of
13 the notice, proofs of mailing of the notice, and the ballots
14 returned by mortgagees for a period of 2 years after the control
15 date.

16 (9) Notwithstanding any provision of the condominium docu-
17 ments to the contrary, FIRST mortgagees are entitled to vote on
18 amendments to the condominium documents only under the following
19 circumstances:

20 (a) Termination of the condominium project.

21 (b) A change in the method or formula used to determine the
22 percentage of value assigned to a unit subject to the mortgagee's
23 mortgage.

24 (c) A reallocation of responsibility for maintenance,
25 repair, replacement, or decoration for a condominium unit, its
26 appurtenant limited common elements, or the general common

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1 elements from the association of co-owners to the condominium
2 unit subject to the mortgagee's mortgage.

3 (d) Elimination of a requirement for the association of
4 co-owners to maintain insurance on the project as a whole or a
5 condominium unit subject to the mortgagee's mortgage or realloca-
6 tion of responsibility for obtaining or maintaining, or both,
7 insurance from the association of co-owners to the condominium
8 unit subject to the mortgagee's mortgage.

9 (e) The modification or elimination of an easement benefit-
10 ing the condominium unit subject to the mortgagee's mortgage.

11 (f) The partial or complete modification, imposition, or
12 removal of leasing restrictions for condominium units in the con-
13 dominium project.

14 (G) AMENDMENTS REQUIRING THE CONSENT OF ALL AFFECTED MORTGA-
15 GEES UNDER SECTION 90(4).

16 Sec. 108. (1) Sums assessed to a co-owner by the associa-
17 tion of co-owners that are unpaid together with interest on such
18 sums, collection and late charges, advances made by the associa-
19 tion of co-owners for taxes or other liens to protect its lien,
20 attorney fees, and fines in accordance with the condominium docu-
21 ments, constitute a lien upon the unit or units in the project
22 owned by the co-owner at the time of the assessment before other
23 liens except tax liens on the condominium unit in favor of any
24 state or federal taxing authority and sums unpaid on a first
25 mortgage of record, except that past due assessments that are
26 evidenced by a notice of lien —, recorded as set forth in
27 subsection (3) —, have priority over a first mortgage recorded

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1 subsequent to the recording of the notice of lien. The lien upon
2 each condominium unit owned by the co-owner shall be in the
3 amount assessed against the condominium unit, plus a proportion-
4 ate share of the total of all other unpaid assessments attribut-
5 able to condominium units no longer owned by the co-owner but
6 which became due while the co-owner had title to the condominium
7 units. The lien may be foreclosed by an action or by advertise-
8 ment by the association of co-owners in the name of the condomin-
9 ium project on behalf of the other co-owners.

10 (2) A foreclosure shall be in the same manner as a foreclo-
11 sure under the laws relating to foreclosure of real estate mort-
12 gages by advertisement or judicial action except that to the
13 extent the condominium documents provide, the association of
14 co-owners is entitled to reasonable interest, expenses, costs,
15 and attorney fees for foreclosure by advertisement or judicial
16 action. The redemption period for a foreclosure is 6 months from
17 the date of sale unless the property is abandoned, in which event
18 the redemption period is 1 month from the date of sale.

19 (3) A foreclosure proceeding may not be commenced without
20 recordation and service of notice of lien in accordance with the
21 following:

22 (a) Notice of lien shall set forth all of the following:

23 (i) The legal description of the condominium unit or condo-
24 minium units to which the lien attaches.

25 (ii) The name of the co-owner of record.

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1 (iii) The amounts due the association of co-owners at the
2 date of the notice, exclusive of interest, costs, attorney fees,
3 and future assessments.

4 (b) The notice of lien shall be in recordable form, executed
5 by an authorized representative of the association of co-owners
6 and may contain other information that the association of
7 co-owners considers appropriate.

8 (c) The notice of lien shall be recorded in the office of
9 register of deeds in the county in which the condominium project
10 is located and shall be served upon the delinquent co-owner by
11 first-class mail, postage prepaid, addressed to the last known
12 address of the co-owner at least 10 days in advance of commence-
13 ment of the foreclosure proceeding.

14 (4) The association of co-owners, acting on behalf of all
15 co-owners, unless prohibited by the master deed or bylaws, may
16 bid in at the foreclosure sale, and acquire, hold, lease, mort-
17 gage, or convey the condominium unit.

18 (5) An action to recover money judgments for unpaid assess-
19 ments may be maintained without foreclosing or waiving the lien.

20 (6) An action for money damages and foreclosure may be com-
21 bined in 1 action.

22 (7) A receiver may be appointed in an action for foreclosure
23 of the assessment lien and may be empowered to take possession of
24 the condominium unit, if not occupied by the co-owner, and to
25 lease the condominium unit and collect and apply the rental
26 ~~therefrom~~ FROM THE CONDOMINIUM UNIT.

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1 (8) The co-owner of a condominium unit subject to
2 foreclosure ~~pursuant to~~ UNDER this section, and any purchaser,
3 grantee, successor, or assignee of the co-owner's interest in the
4 condominium unit, is liable for assessments by the association of
5 co-owners chargeable to the condominium unit that become due
6 before expiration of the period of redemption together with
7 interest, advances made by the association of co-owners for taxes
8 or other liens to protect its lien, costs, and attorney fees
9 incurred in their collection.

10 (9) The mortgagee of a first mortgage of record of a condo-
11 minium unit shall give notice to the association of co-owners of
12 the commencement of foreclosure of the first mortgage by adver-
13 tisement by serving a copy of the published notice of foreclosure
14 required by statute upon the association of co-owners by certi-
15 fied mail, return receipt requested, addressed to the resident
16 agent of the association of co-owners at the agent's address as
17 shown on the records of the Michigan corporation and securities
18 bureau, or to the address the association provides to the mortga-
19 gee, if any, in those cases where the address is not registered,
20 within 10 days after the first publication of the notice. The
21 mortgagee of a first mortgage of record of a condominium unit
22 shall give notice to the association of co-owners of intent to
23 commence foreclosure of the first mortgage by judicial action by
24 serving a notice setting forth the names of the mortgagors, the
25 mortgagee, and the foreclosing assignee of a recorded assignment
26 of the mortgage, IF ANY; the date of the mortgage and the date
27 the mortgage was recorded; the amount claimed to be due on the

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1 mortgage on the date of the notice; and a description of the
2 mortgaged premises that substantially conforms with the descrip-
3 tion contained in the mortgage upon the association of co-owners
4 by certified mail, return receipt requested, addressed to the
5 resident agent of the association of co-owners at the agent's
6 address as shown on the records of the Michigan corporation and
7 securities bureau, or to the address the association provides to
8 the mortgagee, if any, in those cases where the address is not
9 registered, not less than 10 days before commencement of the
10 judicial action. Failure of the mortgagee to provide notice as
11 required by this section shall only provide the association with
12 legal recourse and will not, in any event, invalidate any fore-
13 closure proceeding between a mortgagee and mortgagor.

14 Sec. 112. (1) Before the transitional control date, during
15 the development and sales period the rights of a co-owner,
16 including the developer, to rent any number of condominium units
17 shall be controlled by the provisions of the condominium docu-
18 ments as recorded by the developer and shall not be changed with-
19 out developer approval. After the transitional control date, the
20 association of co-owners may amend the condominium documents as
21 to the rental of condominium units or terms of occupancy. ~~as~~
22 ~~provided in section 90(4).~~ The amendment shall not affect the
23 rights of any lessors or lessees under a written lease otherwise
24 in compliance with this section and executed before the effective
25 date of the amendment, or condominium units ~~as long as they~~
26 THAT are owned or leased by the developer.

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1 (2) A co-owner, including the developer, desiring to rent or
2 lease a condominium unit shall disclose that fact in writing to
3 the association of co-owners at least 10 days before presenting a
4 lease ~~form~~ or otherwise agreeing to grant possession of a con-
5 dominium unit to ~~a~~ potential ~~lessee~~ LESSEES OR OCCUPANTS and,
6 at the same time, shall supply the association of co-owners with
7 a copy of the exact lease ~~form~~ for its review for its compli-
8 ance with the condominium documents. THE CO-OWNER OR DEVELOPER
9 SHALL ALSO PROVIDE THE ASSOCIATION OF CO-OWNERS WITH A COPY OF
10 THE EXECUTED LEASE. If no lease ~~form~~ is to be used, then the
11 co-owner or developer shall supply the association of co-owners
12 with the name and address of the ~~potential lessee~~ LESSEES OR
13 OCCUPANTS, along with the rental amount and due dates ~~under the~~
14 ~~proposed agreement~~ OF ANY RENTAL OR COMPENSATION PAYABLE TO A
15 CO-OWNER OR DEVELOPER, THE DUE DATES OF THAT RENTAL AND COMPENSA-
16 TION, AND THE TERM OF THE PROPOSED ARRANGEMENT.

17 (3) Tenants or nonco-owner occupants shall comply with all
18 of the conditions of the condominium documents of the condominium
19 project, and all leases and rental agreements shall so state.

20 (4) If the association of co-owners determines that the
21 tenant or nonco-owner occupant failed to comply with the condi-
22 tions of the condominium documents, the association of co-owners
23 shall take the following action:

24 (a) The association of co-owners shall notify the co-owner
25 by certified mail, advising of the alleged violation by the
26 tenant. The co-owner shall have 15 days after receipt of the
27 notice to investigate and correct the alleged breach by the

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1 tenant or advise the association of co-owners that a violation
2 has not occurred.

3 (b) If after 15 days the association of co-owners believes
4 that the alleged breach is not cured or may be repeated, it may
5 institute on its behalf or derivatively by the co-owners on
6 behalf of the association of co-owners, if it is under the con-
7 trol of the developer, an action for both eviction against the
8 tenant or nonco-owner occupant and, simultaneously, for money
9 damages against the co-owner and tenant or nonco-owner occupant
10 for breach of the conditions of the condominium documents. The
11 relief provided for in this section may be by summary
12 proceeding. The association of co-owners may hold both the
13 tenant and the co-owner liable for any damages to the general
14 common elements caused by the co-owner or tenant in connection
15 with the condominium unit or condominium project.

16 (5) When a co-owner is in arrearage to the association of
17 co-owners for assessments, the association of co-owners may give
18 written notice of the arrearage to a tenant occupying a
19 co-owner's condominium unit under a lease or rental agreement,
20 and the tenant, after receiving the notice, shall deduct from
21 rental payments due the co-owner the arrearage and future assess-
22 ments as they fall due and pay them to the association of
23 co-owners. The deduction does not constitute a breach of the
24 rental agreement or lease by the tenant. If the tenant, after
25 being notified, fails or refuses to remit rent otherwise due the
26 co-owner to the association of co-owners, then the association of
27 co-owners may do the following:

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1 (a) Issue a statutory notice to quit for non-payment of rent
2 to the tenant and shall have the right to enforce that notice by
3 summary proceeding.

4 (b) Initiate proceedings pursuant to subsection (4)(b).

5 Sec. 135. (1) As used in this section, "successor
6 developer" means a person who acquires title to the lesser of 10
7 units or 75% of the units in a condominium project, other than a
8 business condominium project, by foreclosure, deed in lieu of
9 foreclosure, purchase, or similar transaction. ~~Successor devel-~~
10 ~~oper does not include a person that is not obligated to, or in~~
11 ~~fact does not, construct common elements.~~

12 (2) A successor developer shall do both of the following:

13 (a) Comply with this act in the same manner as a developer
14 before selling any units.

15 (b) Except as provided in subsection (3), assume all express
16 written contractual warranty obligations for defects in workman-
17 ship and materials undertaken by its predecessor in title. A
18 successor developer shall not be required to assume, and shall
19 not otherwise be liable for, any other contractual obligations of
20 its predecessor in title.

21 (3) A successor developer shall not be required to comply
22 with subsection (2)(b) with respect to any express written con-
23 tractual warranty obligations for defects in workmanship and
24 materials, if either of the following is maintained with respect
25 to units for which such a warranty was undertaken by the prede-
26 cessor in title:

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1 (a) An insurance policy, in a form approved by the insurance
2 bureau, that is underwritten by an insurer authorized to do
3 business in this state. The insurance policy shall provide cov-
4 erage for express written contractual warranty obligations for
5 liability for defects in workmanship and materials.

6 (b) An aggregate escrow account with an escrow agent which
7 contains not less than 0.5% of the sales price of each unit. If
8 the escrow account described in this subdivision is initiated by
9 a developer before a successor developer acquires title, 0.5% of
10 the sales price of each unit in the project shall be deposited by
11 the developer in the aggregate escrow account periodically upon
12 the sale of each unit. If the escrow account described in this
13 subdivision is initiated by a successor developer after acquisi-
14 tion of title, a total amount equal to 0.5% of the sales price of
15 all units for which the warranty period plus 6 months has not
16 expired shall be deposited by the successor developer in the
17 aggregate escrow account, and 0.5% of the sales price of each
18 unit shall be deposited by the successor developer in the aggre-
19 gate escrow account periodically upon the sale of each remaining
20 unit. Funds in an escrow account described in this subdivision
21 shall not be released for a unit until 6 months after the expira-
22 tion of the warranty period for that unit.

23 (4) A successor developer that acquires title to the lesser
24 of 10 business condominium units or 75% of the business condomin-
25 ium units in the condominium project shall not be required to
26 assume, and shall not otherwise be liable for, any contractual
27 obligations of its predecessor in title.

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1 (5) A RESIDENTIAL BUILDER WHO NEITHER CONSTRUCTS NOR
2 REFURBISHES COMMON ELEMENTS IN A CONDOMINIUM PROJECT AND WHO IS
3 NOT AN AFFILIATE OF THE DEVELOPER SHALL NOT BE REQUIRED TO ASSUME
4 AND BE LIABLE FOR ANY CONTRACTUAL OBLIGATIONS OF THE DEVELOPER
5 UNDER THIS SECTION, AND SHALL NOT BE CONSIDERED A SUCCESSOR
6 DEVELOPER OR ACQUIRE ANY ADDITIONAL DEVELOPER OBLIGATIONS OR
7 RIGHTS IN THE ABSENCE OF A SPECIFIC ASSIGNMENT OF THOSE OBLIGA-
8 TIONS OR RIGHTS FROM THE DEVELOPER. HOWEVER, A RESIDENTIAL
9 BUILDER THAT SELLS A CONDOMINIUM UNIT SHALL DELIVER TO THE PUR-
10 CHASER OF THAT CONDOMINIUM UNIT THE CONDOMINIUM DOCUMENTS THAT
11 THE DEVELOPER IS REQUIRED TO DELIVER TO THE PURCHASERS UNDER SEC-
12 TION 84A(1).

13 Sec. 173. (1) ~~Except as provided by subsection (2) and by~~
14 ~~the following subdivisions, this act shall apply to any~~ THIS ACT
15 APPLIES TO A condominium project or condominium unit AS FOLLOWS:

16 (a) For a condominium project for which a permit to sell has
17 been issued on or before March 18, 1983, the developer may elect
18 to comply with 1 or more of the following requirements in lieu of
19 the specified provisions:

20 (i) In lieu of section 31, 32, 33, 52, or 66, or any combi-
21 nation of these sections, the developer may elect to comply with
22 the terms of the master deed in effect as of March 18, 1983.

23 (ii) In lieu of sections 66(2)(j), 66(4), 84(3), 84(4)(a),
24 (c), and (e), and 103b, the developer may elect to deposit all
25 funds paid by a purchaser on or after January 17, 1983 into an
26 escrow account pursuant to an escrow agreement the terms of which
27 were approved by the administrator on or before March 18, 1983.

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1 The funds escrowed under this subdivision in excess of any amount
2 or percentage of the escrowed funds that had been required to be
3 escrowed by the administrator or a condominium document pursuant
4 to former section 103 to cover the cost of construction of recre-
5 ational facilities and other common elements, shall be released
6 only upon conveyance of the condominium unit to that purchaser
7 and issuance of a certificate of occupancy if required by local
8 ordinance. Appropriate funds retained in escrow to cover the
9 cost of construction of recreational facilities and other common
10 elements shall be released to the developer upon completion of
11 each recreational facility or other common element. The escrow
12 agent shall be a bank, savings and loan association, or title
13 insurance company, or person designated to act as the agent of a
14 title insurance company, licensed or authorized to do business in
15 this state.

16 (b) For a condominium project for which a permit to sell has
17 been issued on or before March 18, 1983, the developer may elect
18 to exempt the project from the application of sections 84(4)(d),
19 144, and 145(b).

20 (c) For promotional material filed with the administrator on
21 or before March 18, 1983, the developer may elect to exempt the
22 promotional material from the application of section 81a. For
23 promotional material that has not been filed with the administra-
24 tor on or before March 18, 1983 and that relates to a condominium
25 project to which section 66 does not apply, the developer shall
26 comply with section 81a as if section 66 was applicable to the
27 condominium project.

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1 (2) Sections 104a, 104b, ~~104c,~~ and 104d ~~, as amended by~~
2 ~~Act No. 538 of the Public Acts of 1982, shall~~ AND FORMER SECTION
3 104C apply to all condominium projects ~~which~~ THAT on
4 October 10, 1980 ~~,~~ complied with the definition of qualified
5 conversion condominium project ~~as added by Act No. 538 of the~~
6 ~~Public Acts of 1982~~ PROVIDED IN SECTION 104B.

7 (3) Subsection (1)(a)(ii) and (b) ~~shall~~ DOES not apply to
8 any phase or convertible area of a condominium project ~~, which~~
9 IF THE phase is established ~~,~~ or ~~which~~ THE convertibility
10 option is exercised ~~,~~ after March 18, 1983 ~~,~~ and ~~the~~ THAT
11 establishment or exercise ~~of which~~ results in the addition of
12 units to the condominium project or the creation of a facility
13 intended for common use.

14 (4) SECTIONS 54(8), (9), AND (10), 135(5), AND 176 APPLY
15 ONLY TO CONDOMINIUM PROJECTS ESTABLISHED ON OR AFTER THE EFFEC-
16 TIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

17 Sec. 176. A person shall not maintain ~~any~~ AN action
18 against ~~any~~ A developer, residential builder, licensed archi-
19 tect, contractor, sales agent, or manager of a condominium
20 project arising out of the development or construction of the
21 common elements, or the management, operation, or control of a
22 condominium project BEFORE THE TRANSITIONAL CONTROL DATE, more
23 than 3 years ~~from~~ AFTER the transitional control date or 2
24 years from the date the cause of action accrues, whichever occurs
25 later.

26 Enacting section 1. Section 174 of the condominium act,
27 1978 PA 59, MCL 559.274, is repealed.