



HOUSE BILL No. 5997

July 3, 1996, Introduced by Reps. Gire, LaForge, Rocca, Scott, Dolan, Martinez and Harder and referred to the Committee on Regulatory Affairs.

A bill to amend Act No. 59 of the Public Acts of 1978, entitled as amended

"Condominium act,"

as amended, being sections 559.101 to 559.275 of the Michigan Compiled Laws, by adding sections 107a, 107b, 107c, 107d, and 107e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 59 of the Public Acts of 1978, as
2 amended, being sections 559.101 to 559.275 of the Michigan
3 Compiled Laws, is amended by adding sections 107a, 107b, 107c,
4 107d, and 107e to read as follows:

5 SEC. 107A. AS USED IN THIS SECTION AND SECTIONS 107B TO
6 107E:

7 (A) "DISPUTE" MEANS A DISAGREEMENT BETWEEN 2 OR MORE PARTIES
8 THAT INVOLVES EITHER OF THE FOLLOWING:

1 (i) THE BOARD OF DIRECTORS AUTHORITY UNDER THIS ACT OR A
2 CONDOMINIUM DOCUMENT TO DO 1 OR MORE OF THE FOLLOWING:

3 (A) REQUIRE AN OWNER TO TAKE AN ACTION, OR NOT TO TAKE AN
4 ACTION, INVOLVING THAT OWNER'S UNIT OR APPURTENANCES TO THAT
5 UNIT.

6 (B) ALTER OR ADD TO A COMMON AREA OR ELEMENT.

7 (ii) A GOVERNING BODY'S FAILURE, IF REQUIRED BY THIS ACT OR
8 A CONDOMINIUM DOCUMENT, TO DO 1 OR MORE OF THE FOLLOWING:

9 (A) PROPERLY CONDUCT AN ELECTION.

10 (B) GIVE ADEQUATE NOTICE OF A MEETING OR OTHER ACTION.

11 (C) PROPERLY CONDUCT A MEETING.

12 (D) ALLOW INSPECTION OF BOOKS AND RECORDS.

13 (B) "DISPUTE" DOES NOT INCLUDE A DISAGREEMENT THAT PRIMARILY
14 INVOLVES 1 OR MORE OF THE FOLLOWING:

15 (i) TITLE TO ANY UNIT OR COMMON ELEMENT.

16 (ii) THE INTERPRETATION OR ENFORCEMENT OF A WARRANTY.

17 (iii) THE LEVY OF A FEE OR ASSESSMENT.

18 (iv) THE COLLECTION OF AN ASSESSMENT LEVIED AGAINST A
19 PARTY.

20 SEC. 107B. (1) THE ADMINISTRATOR SHALL EMPLOY ATTORNEYS ON
21 A FULL-TIME BASIS TO ACT AS ARBITRATORS TO CONDUCT THE ARBITRA-
22 TION HEARINGS PRESCRIBED BY SECTION 107C. THE ADMINISTRATOR MAY
23 ALSO CERTIFY ATTORNEYS WHO ARE NOT EMPLOYED BY THE ADMINISTRATOR
24 TO ACT AS ARBITRATORS TO CONDUCT THE ARBITRATION HEARINGS. THE
25 ADMINISTRATOR SHALL NOT EMPLOY AN INDIVIDUAL AS A FULL-TIME ARBI-
26 TRATOR UNLESS THE INDIVIDUAL IS A MEMBER IN GOOD STANDING OF THE
27 STATE BAR OF MICHIGAN.

1 (2) THE ADMINISTRATOR SHALL PROMULGATE RULES TO GOVERN
2 ARBITRATION HEARINGS PRESCRIBED BY SECTION 107C.

3 SEC. 107C. (1) BEFORE AN ACTION IS COMMENCED IN A COURT,
4 THE PARTIES TO A DISPUTE SHALL PETITION THE ADMINISTRATOR FOR
5 NONBINDING ARBITRATION. ARBITRATION SHALL BE CONDUCTED ACCORDING
6 TO RULES PROMULGATED BY THE ADMINISTRATOR. THE FILING OF A PETI-
7 TION FOR ARBITRATION TOLLS THE STATUTE OF LIMITATIONS.

8 (2) AT THE REQUEST OF A PARTY TO THE ARBITRATION, THE ARBI-
9 TRATOR SHALL ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS OR
10 THE PRODUCTION OF BOOKS, RECORDS, DOCUMENTS, OR OTHER EVIDENCE.
11 A PARTY TO THE ARBITRATION MAY APPLY TO THE COURT FOR AN ORDER
12 COMPELLING ATTENDANCE AND PRODUCTION. A SUBPOENA SHALL BE SERVED
13 AND IS ENFORCEABLE IN THE MANNER PROVIDED BY COURT RULE. IN THE
14 DISCRETION OF THE ARBITRATOR, DISCOVERY MAY BE PERMITTED IN THE
15 MANNER PROVIDED BY COURT RULE.

16 (3) AN ARBITRATION DECISION SHALL BE PRESENTED TO THE PAR-
17 TIES IN WRITING. THE PREVAILING PARTY MAY BE AWARDED ARBITRATION
18 COSTS, REASONABLE ATTORNEY FEES, OR BOTH, IN AN AMOUNT DETERMINED
19 IN THE ARBITRATOR'S DISCRETION.

20 (4) THIS SECTION DOES NOT PRECLUDE PARTIES FROM PROCEEDING
21 IN A TRIAL DE NOVO, AND IF JUDICIAL PROCEEDINGS ARE INITIATED IN
22 ACCORDANCE WITH SECTION 107D, THE FINAL DECISION OF THE ARBITRA-
23 TOR IS ADMISSIBLE IN EVIDENCE.

24 (5) AN ARBITRATION DECISION IS FINAL IF A COMPLAINT FOR A
25 TRIAL DE NOVO IS NOT FILED UNDER SECTION 107D IN A COURT OF COM-
26 PETENT JURISDICTION IN THE COUNTY IN WHICH THE CONDOMINIUM IS

1 LOCATED WITHIN 30 DAYS FOLLOWING THE RECEIPT OF THE ARBITRATION
2 DECISION. AN ARBITRATION DECISION IS NOT FINAL AGENCY ACTION.

3 SEC. 107D. (1) FOLLOWING THE RECEIPT OF AN ARBITRATION
4 DECISION UNDER SECTION 107C, A PARTY MAY FILE A COMPLAINT IN A
5 COURT OF COMPETENT JURISDICTION IN THE COUNTY IN WHICH THE CONDO-
6 MINUM IS LOCATED FOR A JUDICIAL RESOLUTION OF THE DISPUTE BY A
7 TRIAL DE NOVO.

8 (2) IF THE JUDGMENT UPON THE TRIAL DE NOVO IS NOT MORE
9 FAVORABLE TO THE PARTY THAT FILES A COMPLAINT FOR A TRIAL DE NOVO
10 THAN THE ARBITRATION DECISION, THAT PARTY SHALL BE ASSESSED THE
11 OTHER PARTY'S ARBITRATION COSTS, COURT COSTS, AND OTHER REASON-
12 ABLE COSTS, INCLUDING ATTORNEY FEES, INVESTIGATION EXPENSES, AND
13 EXPENSES FOR EXPERT OR OTHER TESTIMONY OR EVIDENCE INCURRED AFTER
14 THE ARBITRATION HEARING. IF THE JUDGMENT IS MORE FAVORABLE, THE
15 PARTY WHO FILED A COMPLAINT FOR A TRIAL DE NOVO SHALL BE AWARDED
16 REASONABLE COURT COSTS AND ATTORNEY FEES.

17 SEC. 107E. A PARTY TO AN ARBITRATION PROCEEDING MAY ENFORCE
18 AN ARBITRATION AWARD BY FILING A PETITION IN A COURT OF COMPETENT
19 JURISDICTION IN THE COUNTY IN WHICH THE CONDOMINIUM IS LOCATED.
20 THE PETITION SHALL NOT BE GRANTED UNLESS THE TIME HAS EXPIRED FOR
21 APPEAL OF THE ARBITRATION AWARD BY THE FILING OF A COMPLAINT FOR
22 A TRIAL DE NOVO. IF A COMPLAINT FOR A TRIAL DE NOVO IS FILED, A
23 PETITION SHALL NOT BE GRANTED WITH RESPECT TO AN ARBITRATION
24 AWARD THAT IS STAYED. IF THE PETITION IS GRANTED, THE PETITIONER
25 MAY RECOVER REASONABLE ATTORNEY FEES AND COSTS INCURRED IN
26 ENFORCING THE ARBITRATION AWARD.