

HOUSE BILL No. 5225

October 7, 1997, Introduced by Reps. Gire, Callahan, Perricone, Martinez, LaForge and Law and referred to the Committee on Consumer Protection.

A bill to amend 1978 PA 59, entitled
"Condominium act,"
(MCL 559.101 to 559.275) by adding sections 107a, 107b, 107c,
107d, and 107e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 107A. AS USED IN THIS SECTION AND SECTIONS 107B TO
2 107E:

3 (A) "DISPUTE", SUBJECT TO SUBDIVISION (B), MEANS A DISAGREE-
4 MENT BETWEEN 2 OR MORE PARTIES THAT INVOLVES EITHER OF THE
5 FOLLOWING:

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

8 (A) REQUIRE AN OWNER TO TAKE AN ACTION, OR NOT TO TAKE AN
9 ACTION, INVOLVING THAT OWNER'S UNIT OR APPURTENANCES TO THAT
10 UNIT.

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

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

4 (A) PROPERLY CONDUCT AN ELECTION.

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

6 (C) PROPERLY CONDUCT A MEETING.

7 (D) ALLOW INSPECTION OF BOOKS AND RECORDS.

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

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

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

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

13 (iv) THE COLLECTION OF AN ASSESSMENT LEVIED AGAINST A
14 PARTY.

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

23 (2) THE ADMINISTRATOR SHALL PROMULGATE RULES TO GOVERN ARBI-
24 TRATION HEARINGS PRESCRIBED BY SECTION 107C.

25 SEC. 107C. (1) BEFORE AN ACTION IS COMMENCED IN A COURT,
26 THE PARTIES TO A DISPUTE SHALL PETITION THE ADMINISTRATOR FOR
27 NONBINDING ARBITRATION. ARBITRATION SHALL BE CONDUCTED ACCORDING

1 TO RULES PROMULGATED BY THE ADMINISTRATOR UNDER SECTION 107B.
2 THE FILING OF A PETITION FOR ARBITRATION TOLLS THE STATUTE OF
3 LIMITATIONS.

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

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

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

20 (5) AN ARBITRATION DECISION IS FINAL IF A COMPLAINT FOR A
21 TRIAL DE NOVO IS NOT FILED UNDER SECTION 107D IN A COURT OF COM-
22 PETENT JURISDICTION IN THE COUNTY IN WHICH THE CONDOMINIUM IS
23 LOCATED WITHIN 30 DAYS FOLLOWING THE RECEIPT OF THE ARBITRATION
24 DECISION. AN ARBITRATION DECISION IS NOT FINAL AGENCY ADMINIS-
25 TRATIVE ACTION.

26 SEC. 107D. (1) FOLLOWING THE RECEIPT OF AN ARBITRATION
27 DECISION UNDER SECTION 107C, A PARTY MAY FILE A COMPLAINT IN A

1 COURT OF COMPETENT JURISDICTION IN THE COUNTY IN WHICH THE
2 CONDOMINIUM IS LOCATED FOR A JUDICIAL RESOLUTION OF THE DISPUTE
3 BY A TRIAL DE NOVO.

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

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