

Act No. 36
Public Acts of 1998
Approved by the Governor
March 18, 1998
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EFFECTIVE DATE: March 18, 1998

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senator Cisky

ENROLLED SENATE BILL No. 365

AN ACT to amend 1978 PA 59, entitled "An act relative to condominiums and condominium projects; to prescribe powers and duties of the administrator; to provide certain protections for certain tenants, senior citizens, and handicapped persons relating to conversion condominium projects; to provide for escrow arrangements; to provide an exemption from certain property tax increases; to impose duties on certain state departments; to prescribe remedies and penalties; and to repeal certain acts and parts of acts," by amending the title and sections 47a and 104b (MCL 559.147a and 559.204b), the title and section 104b as amended by 1982 PA 538 and section 47a as added by 1987 PA 31.

The People of the State of Michigan enact:

TITLE

An act relative to condominiums and condominium projects; to prescribe powers and duties of the administrator; to provide certain protections for certain tenants, senior citizens, and persons with disabilities relating to conversion condominium projects; to provide for escrow arrangements; to provide an exemption from certain property tax increases; to impose duties on certain state departments; to prescribe remedies and penalties; and to repeal acts and parts of acts.

Sec. 47a. (1) A co-owner may make improvements or modifications to the co-owner's condominium unit, including improvements or modifications to common elements and to the route from the public way to the door of the co-owner's condominium unit, at his or her expense, if the purpose of the improvement or modification is to facilitate access to or movement within the unit for persons with disabilities, or to alleviate conditions that could be hazardous to persons with disabilities. The improvement or modification shall not impair the structural integrity of a structure or otherwise lessen the support of a portion of the condominium project. The co-owner shall be liable for the cost of repairing any damage to a common element caused by building or maintaining the improvement or modification, unless the damage could reasonably be expected in the normal course of building or maintaining the improvement or modification. The improvement or modification may be made notwithstanding prohibitions and restrictions in the condominium documents, but shall comply with all applicable state and local building code requirements and health and safety laws and ordinances and shall be made as closely as reasonably possible in conformity with the intent of applicable prohibitions and restrictions regarding safety and aesthetics of the proposed modification.

(2) An improvement or modification allowed by this section that affects the exterior of the condominium unit shall not unreasonably prevent passage by other residents of the condominium project. A co-owner who has made exterior improvements or modifications allowed by this section shall notify the association of co-owners in writing of the co-owner's intention to convey or lease his or her condominium unit to another, not less than 30 days before the conveyance or lease. Not more than 30 days after receiving a notice from a co-owner under this subsection, the association of co-owners may require that the co-owner remove the improvement or modification, at the co-owner's expense. If the co-owner fails to give timely notice of a conveyance or lease, the association of co-owners at any time may remove or require the co-owner to remove the improvement or modification, at the co-owner's expense. However, the association of co-owners may not remove or require the removal of an improvement or modification if a co-owner conveys or leases his or her condominium unit to a person with disabilities who needs the same type of improvement or modification, or to a person whose parent, spouse, or child is a person with disabilities, requires the same type of improvement or modification, and resides with the person.

(3) If a co-owner makes an exterior improvement or modification allowed under this section, the co-owner shall maintain liability insurance, underwritten by an insurer authorized to do business in this state, in an amount adequate to compensate for personal injuries caused by the exterior improvement or modification, but the co-owner shall not be liable for acts or omissions of the association of co-owners with respect to the exterior improvement or modification, and the co-owner shall not be required to maintain liability insurance with respect to any common element. The association of co-owners shall be responsible for the cost of any maintenance of the improvement or modification, unless the maintenance cannot reasonably be included with the regular maintenance performed by or paid for by the association of co-owners, in which case the co-owner shall be responsible for the cost of the maintenance of the improvement or modification.

(4) Before an improvement or modification allowed by this section is made, the co-owner shall submit plans and specifications for the improvements or modifications to the association of co-owners for review and approval. The association of co-owners shall determine whether the proposed improvement or modification substantially conforms to the requirements of this section, but shall not deny a proposed improvement or modification without good cause. If the association of co-owners denies a proposed improvement or modification, the association of co-owners shall list, in writing, the changes needed to make the proposed improvement or modification conform to the requirements of this section, and shall deliver that list to the co-owner. The association of co-owners shall approve or deny the proposed improvement or modification not later than 60 days after the plans and specifications are submitted to the association of co-owners. If the association of co-owners does not approve or deny submitted plans and specifications within the 60-day period, the co-owner may make the proposed improvement or modification without the approval of the association of co-owners. A co-owner may bring an action against the association of co-owners and the officers and directors to compel those persons to comply with this section if the co-owner disagrees with a denial by the association of co-owners of the co-owner's proposed improvement or modification.

(5) This section applies to condominium units existing on May 27, 1987 and to those built or converted after May 27, 1987.

(6) This section does not apply to a condominium unit that is otherwise required by law to be barrier-free, and does not impose on a co-owner the cost of maintaining that barrier-free unit.

(7) As used in this section, "person with disabilities" means that term as defined in section 2 of the state construction code act of 1972, 1972 PA 230, MCL 125.1502.

Sec. 104b. (1) As used in this section and sections 104a, 104d, 104e, and 131:

(a) "Qualified conversion condominium project" means a structure or group of structures containing a total of 6 or more residential units occupied before the establishment of a conversion condominium project.

(b) "Qualified person with disabilities" means a person who is a resident of a qualified conversion condominium project and paraplegic, quadriplegic, hemiplegic, or blind as that term is defined in section 504 of the income tax act of 1967, 1967 PA 281, MCL 206.504.

(c) "Qualified senior citizen" means an individual who is both of the following:

(i) A resident, on October 10, 1980, of a unit in a qualified conversion condominium project who on or after June 1, 1980, was a party to an oral or written agreement to pay less than \$450.00 monthly rent for an apartment in the project having 1 bedroom or less, or less than \$500.00 monthly rent for an apartment in the project having 2 or more bedrooms.

(ii) Sixty-five years of age or older on October 10, 1980.

(d) "Rent" or "monthly rent" means the total monthly amount payable to the lessor, and shall include any amount payable to the lessor for utilities.

(e) "Resident" means an individual who uses a unit as his or her primary residence, to which the individual intends to return whenever absent.

(f) "Restricted unit" means an apartment that is subject to an extended lease arrangement as provided in subsection (4).

(2) Except as to a developer who has been issued a permit to sell before October 10, 1980, this section applies to a developer of a qualified conversion condominium project.

(3) A developer shall notify each existing tenant at the same time notice is given under section 104(2), of the right to elect an extended lease arrangement and the terms and conditions of an extended lease arrangement. A qualified senior citizen or qualified person with disabilities shall have not more than 60 days after receipt of notice under this subsection to communicate the election of an extended lease arrangement to the developer.

(4) An extended lease arrangement shall be in writing and shall provide for the following:

(a) A written lease renewable from year to year for the number of years specified in subsection (5) with respect to a unit occupied by a qualified senior citizen, and for the number of years specified in subsection (6) with respect to a unit occupied by a qualified person with disabilities.

(b) That the number of years for which a lease subject to an extended lease arrangement may be renewed shall be measured from the date on which the election of an extended lease arrangement is communicated to the developer.

(c) That any increase in the rent during the time the unit is a restricted unit will not be an unreasonable increase beyond the fair market rent for a comparable apartment.

(d) That upon request of the resident of a restricted unit, the owner shall disclose all information used in determining a reasonable rent increase based upon the standard in subdivision (c).

(5) Except as provided in section 104d, the number of years for which a qualified senior citizen may renew a lease subject to an extended lease arrangement shall be determined by his or her age on the date of receipt of the notice required under section 104(2), as follows:

(a) A person who is not less than 65 years of age and not more than 69 years of age may renew year to year for 4 years. However, if the developer is notified that sufficient loan funds are not available under former section 104c, the period of renewal under this subdivision is reduced 2 years. The developer immediately shall notify affected qualified senior citizens of a reduction in the number of years of renewal.

(b) A person who is not less than 70 years of age and not more than 74 years of age may renew year to year for 6 years.

(c) A person who is not less than 75 years of age and not more than 79 years of age may renew year to year for 7 years.

(d) A person who is 80 years of age or more may renew year to year for 10 years.

(6) Except as provided in section 104d, a person who is a qualified person with disabilities on the date of receipt of notice required under section 104(2) may renew a lease subject to an extended lease arrangement year to year for 4 years; or, if the qualified person with disabilities is also a qualified senior citizen, for the number of years provided in subsection (5), whichever is greater.

(7) A developer who enters into a restricted lease arrangement or the developer's successor shall notify:

(a) The Michigan state housing development authority of each tenant who elects an extended lease arrangement as soon as practicable after the election is communicated to the developer.

(b) The office of services to the aging created in section 5 of the older Michigianians act, 1981 PA 180, MCL 400.585, 18 months before the expiration of the extended lease arrangement for a qualified senior citizen who is in the age categories described in subsection (5)(c) and (d).

(8) A lease subject to an extended lease arrangement shall not be assigned, devised, subleased, or transferred by the qualified senior citizen or qualified person with disabilities.

(9) A lease subject to an extended lease arrangement shall terminate automatically upon the death of the qualified senior citizen or qualified person with disabilities. However, a surviving spouse of a qualified senior citizen who is 65 years of age or older at the time the qualified senior citizen dies shall have the right to execute a lease under an extended lease arrangement subject to the right of renewal, and other conditions, that applied to the deceased. A surviving spouse who does not qualify for an extended lease shall have 6 months in which to vacate the premises, during which time the conditions of the deceased spouse's extended lease shall apply, except for the right of renewal.

(10) A lessor who violates the rental restrictions of subsection (4)(c) is liable to the qualified senior citizen or qualified person with disabilities in an amount equal to 3 times the amount by which the rental payments exceed the fair market rent, to be recovered in a civil action.

(11) The owner may recover possession of a restricted unit for nonpayment of rent, illegal use or occupancy of the premises, or other grounds for recovery of possession under chapter 57 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5701 to 600.5759.

(12) A restricted unit may be transferred by the owner to any person, subject to the extended lease arrangement.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 376 of the 89th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Maya Rudolph

Clerk of the House of Representatives.

Approved _____

Governor.