



**Senate Fiscal Agency**  
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**BILL ANALYSIS**



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Senate Bill 610 (as introduced 11-10-15)  
Sponsor: Senator Margaret E. O'Brien  
Committee: Local Government

Date Completed: 2-9-16

**CONTENT**

**The bill would amend the Condominium Act to revise provisions under which a developer may withdraw undeveloped portions from a project or convert them to "must be built" without the prior consent of co-owners, mortgagees, or other interested parties; and provisions under which undeveloped portions that are not withdrawn after a specified time period remain as general common elements and construction rights cease. Regarding undeveloped portions not withdrawn, the bill would 1) allow an association of co-owners, by an affirmative two-thirds vote, to declare that those units would remain part of the project but revert to common elements and that rights to construction would cease; and 2) allow the developer, within 60 days, to withdraw the undeveloped units or convert them to "must be built".**

The Act requires a condominium subdivision plan for each condominium project to be prepared by a licensed architect, licensed professional surveyor, or licensed professional engineer, and to contain documents and information specified in the Act. These items include building sections showing the existing and proposed structures and improvements. Any proposed structure and improvement shown must be labeled either "must be built" or "need not be built". The developer is required to complete all structures or improvements designated "must be built".

If a condominium developer has not completed development and construction of units or improvements in a condominium project that are identified as "need not be built" within 10 years after construction of the project began, the developer, its successors, or its assigns have the right to withdraw from the project all undeveloped portions of it that are not identified as "must be built", without prior consent of any co-owners, mortgagees of units in the project, or any other party having an interest in the project. If the master deed contains provisions permitting the expansion, contraction, or rights of convertibility of units or common elements in the condominium project, then the time period is six years after the developer exercised its rights with respect to expansion, contraction, or convertibility, whichever right was exercised last. The undeveloped portions of the project withdrawn are automatically granted easements for utility and access purposes through the condominium project for the benefit of the undeveloped portions.

The bill would revise the provisions described above. Specifically, for 10 years after the master deed was recorded, if the developer had not completed development and construction of units in the condominium project that were defined as being enclosed by improvements comprising both a vertical and a horizontal dimension and that were not identified in the condominium subdivision plan as "must be built", the developer, its successors, or assigns could withdraw any such units from the project or convert them to "must be built" without the prior consent



of any co-owners, mortgagees, or any other party having an interest in the project. If the master deed conferred on the developer expansion, contraction, or convertibility rights with respect to units or common elements in the condominium project, then the time period would be 10 years after the recording of the master deed or six years after the recording of the amendment to the master deed by which the developer last exercised its expansion, contraction, or convertibility rights, whichever period ended later. The undeveloped units not labeled "must be built" so withdrawn would be automatically granted easements for utility and access purposes through the condominium project for the benefit of the undeveloped portions of the project.

Currently, if the developer does not withdraw the undeveloped portions of the project from the project before the specified time period expires, the undeveloped land must remain part of the project as general common elements and all rights to construct units on that land cease. The bill instead provides that, if the developer did not withdraw from the project or convert the units not labeled "must be built" before the applicable time period expired, the association of co-owners, by an affirmative two-thirds majority vote, could declare that those undeveloped units would remain part of the project but revert to general common elements and that all rights to construct those units would cease.

When a declaration described above was made, the association of co-owners would have to give written notice of it to the developer or any successor developer by first-class mail at its last known address. Within 60 days after receiving the notice, the developer or any successor developer could withdraw the undeveloped units or convert them to "must be built". If the units were not withdrawn or converted within 60 days, however, the association could file the notice of the declaration with the register of deeds. The declaration would take effect upon recording by the register of deeds. The association also would have to file notice of the declaration with the local supervisor or assessing officer.

A reversion described above, whether occurring before or after the bill's effective date, would not be effective unless the election, notice, and recording requirements were met.

The provisions that the bill would amend would not apply to units no longer owned by the developer or by the owner of the property at the time the property became part of the condominium project, unless the purchaser from the developer or previous owner were a successor developer.

The bill would take effect 90 days after its enactment.

MCL 559.167

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.