

# SENATE BILL No. 914

March 21, 2018, Introduced by Senator ROBERTSON and referred to the Committee on Local Government.

A bill to amend 1978 PA 59, entitled "Condominium act," by amending sections 6, 15, 56, 57, 90, and 91 (MCL 559.106, 559.115, 559.156, 559.157, 559.190, and 559.191), section 6 as amended by 2000 PA 379, section 15 as added by 1982 PA 4, section 57 as amended by 2013 PA 134, section 90 as amended by 2002 PA 283, and section 91 as amended by 1982 PA 538, and by adding section 57b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

SENATE BILL No. 914

1           Sec. 6. (1) "Co-owner" means ~~a person,~~ **AN INDIVIDUAL**, firm,  
2 corporation, partnership, association, trust, or other legal entity  
3 or any combination of those entities, who owns a condominium unit  
4 within the condominium project. Co-owner includes land contract  
5 vendees and land contract vendors, who are considered jointly and

1 severally liable under this act and the condominium documents,  
2 except as the recorded condominium documents provide otherwise.

3 (2) "Developer" means a person engaged in the business of  
4 developing a condominium project as provided in this act. Developer  
5 does not include any of the following:

6 (a) A real estate broker acting as agent for the developer in  
7 selling condominium units.

8 (b) A residential builder who acquires title to 1 or more  
9 condominium units for the purpose of residential construction on  
10 those condominium units and subsequent resale.

11 (c) Other persons exempted from this definition by rule or  
12 order of the administrator.

13 (3) **"ELECTRONIC TRANSMISSION" MEANS ANY FORM OF COMMUNICATION**  
14 **THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:**

15 (A) **DOES NOT DIRECTLY INVOLVE THE PHYSICAL TRANSMISSION OF**  
16 **PAPER.**

17 (B) **CREATES A RECORD THAT CAN BE RETAINED AND RETRIEVED BY THE**  
18 **RECIPIENT OR ACCESSED BY THE RECIPIENT ELECTRONICALLY THROUGH A**  
19 **WEBSITE. FOR THE PURPOSES OF THIS ACT, THE RECORD IS CONSIDERED A**  
20 **WRITING.**

21 (C) **CAN BE DIRECTLY REPRODUCED IN PAPER FORM BY THE RECIPIENT**  
22 **THROUGH AN AUTOMATED PROCESS.**

23 (4) ~~(3)~~ "Escrow agent" means a bank, savings and loan  
24 association, or title insurance company, licensed or authorized to  
25 do business in this state or a representative designated to  
26 administer escrow funds in the name, and on behalf, of the escrow  
27 agent.

1           (5) ~~(4)~~ "Expandable condominium" means a condominium project  
2 to which additional land may be added ~~in accordance with~~ **UNDER** this  
3 act.

4           (6) ~~(5)~~ "General common elements" means the common elements  
5 other than the limited common elements.

6           Sec. 15. (1) This act ~~shall~~ **DOES** not be construed or  
7 interpreted as to authorize or permit the incurring of indebtedness  
8 of the state contrary to the provisions of the state constitution  
9 of 1963.

10           (2) **NOTWITHSTANDING ANY PROVISION CONTAINED IN THE NONPROFIT**  
11 **CORPORATION ACT, 1982 PA 162, MCL 450.2101 TO 450.3192, IF ANY**  
12 **PROVISION OF THIS ACT OR THE CONDOMINIUM DOCUMENTS PROVIDES FOR THE**  
13 **ASSOCIATION OF CO-OWNERS TO DELIVER OR SEND A DOCUMENT OR**  
14 **INFORMATION TO A CO-OWNER, THE ASSOCIATION OF CO-OWNERS MAY SEND**  
15 **THE DOCUMENT OR INFORMATION BY ELECTRONIC TRANSMISSION IF THE CO-**  
16 **OWNER HAS PROVIDED THE ASSOCIATION OF CO-OWNERS WITH AN ELECTRONIC**  
17 **MAIL ADDRESS OR OTHER MEANS BY WHICH THE CO-OWNER CAN RECEIVE AN**  
18 **ELECTRONIC TRANSMISSION.**

19           Sec. 56. The bylaws may contain ~~provisions:~~

20           ~~— (a) As are deemed appropriate~~ **ANY OF THE FOLLOWING:**

21           **(A) PROVISIONS** for the administration of the condominium  
22 project not inconsistent with this act or any other applicable  
23 laws.

24           (b) ~~For restrictions~~ **RESTRICTIONS** on the sale, lease, license  
25 to use, or occupancy of condominium units.

26           (c) ~~For~~ **PROVISIONS FOR** insuring the co-owners against risks  
27 affecting the condominium project, without prejudice to the right

1 of each co-owner to insure ~~his~~ A condominium unit ~~or condominium~~  
2 ~~units on his~~ ON THE CO-OWNER'S own account and for ~~his~~ THE CO-  
3 OWNER'S own benefit.

4 (D) NOTWITHSTANDING ANY PROVISION IN THE NONPROFIT CORPORATION  
5 ACT, 1982 PA 162, MCL 450.2101 TO 450.3192, PROVISIONS ALLOWING ANY  
6 ACTION REQUIRED OR PERMITTED TO BE TAKEN AT A MEETING OF THE BOARD  
7 OF DIRECTORS OF THE ASSOCIATION OF CO-OWNERS OR A COMMITTEE OF THE  
8 BOARD OF DIRECTORS OF THE ASSOCIATION OF CO-OWNERS TO BE TAKEN  
9 WITHOUT A MEETING IF A MAJORITY OF THE MEMBERS OF THE BOARD OF  
10 DIRECTORS OR OF THE COMMITTEE CONSENT TO THE ACTION IN WRITING. A  
11 RECORD OF ANY WRITTEN CONSENT SHALL BE FILED AND MADE PART OF THE  
12 ASSOCIATION OF CO-OWNERS' BOOKS AND RECORDS. THE CONSENT HAS THE  
13 SAME EFFECT AS A VOTE OF THE BOARD OR COMMITTEE FOR ALL PURPOSES.

14 Sec. 57. ~~(1) The books, records, contracts, and financial~~  
15 ~~statements concerning the administration and operation of the~~  
16 ~~condominium project shall be available for examination by any of~~  
17 ~~the co-owners and their mortgagees at convenient times.~~

18 (1) ~~(2)~~ Except as provided in subsection ~~(3)~~, (2), an  
19 association of co-owners with annual revenues greater than  
20 \$20,000.00 shall on an annual basis have its books, records, and  
21 financial statements independently audited or reviewed by a  
22 certified public accountant, as defined in section 720 of the  
23 occupational code, 1980 PA 299, MCL 339.720. The audit or review  
24 shall be performed ~~in accordance with~~ PURSUANT TO the ~~statements on~~  
25 ~~auditing standards or the statements on standards for accounting~~  
26 ~~and review services, respectively, of the American institute of~~  
27 ~~certified public accountants.~~ "STATEMENTS ON AUDITING STANDARDS" OR

1 THE "STATEMENTS ON STANDARDS FOR ACCOUNTING AND REVIEW SERVICES",  
2 RESPECTIVELY, OF THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC  
3 ACCOUNTANTS, INC.

4 (2) ~~(3)~~An association of co-owners may opt out of the  
5 requirements of subsection ~~(2)~~(1) on an annual basis by an  
6 affirmative vote of a majority of its members by any means  
7 permitted under the association's bylaws.

8 SEC. 57B. (1) A MORTGAGEE OF A CO-OWNER MAY INSPECT THE  
9 RECORDS OF THE ASSOCIATION OF CO-OWNERS DURING REGULAR BUSINESS  
10 HOURS.

11 (2) A CO-OWNER, IN PERSON OR BY ATTORNEY OR OTHER AGENT, MAY  
12 INSPECT THE RECORDS OF THE ASSOCIATION OF CO-OWNERS DURING REGULAR  
13 BUSINESS HOURS, SUBJECT TO ALL OF THE FOLLOWING:

14 (A) THE INSPECTION IS FOR A PROPER PURPOSE.

15 (B) THE CO-OWNER GIVES THE ASSOCIATION OF CO-OWNERS WRITTEN  
16 DEMAND DESCRIBING WITH REASONABLE PARTICULARITY THE PURPOSE OF THE  
17 INSPECTION AND THE RECORDS THE CO-OWNER DESIRES TO INSPECT.

18 (C) THE RECORDS SOUGHT ARE DIRECTLY CONNECTED WITH THE PURPOSE  
19 DESCRIBED IN THE DEMAND.

20 (D) THE DEMAND IS DELIVERED TO THE ASSOCIATION OF CO-OWNERS AT  
21 ITS REGISTERED OFFICE IN THIS STATE OR AT ITS PRINCIPAL PLACE OF  
22 BUSINESS.

23 (E) IF THE PERSON SEEKING TO INSPECT THE RECORDS IS AN  
24 ATTORNEY OR OTHER AGENT, THE DEMAND INCLUDES A POWER OF ATTORNEY OR  
25 OTHER WRITING THAT AUTHORIZES THE ATTORNEY OR OTHER AGENT TO ACT ON  
26 BEHALF OF THE CO-OWNER.

27 (3) IF AN ASSOCIATION OF CO-OWNERS DOES NOT ALLOW AN

1 INSPECTION WITHIN 5 BUSINESS DAYS AFTER A DEMAND IS RECEIVED UNDER  
2 SUBSECTION (2), OR IMPOSES UNREASONABLE CONDITIONS ON THE  
3 INSPECTION, THE CO-OWNER MAY APPLY TO THE CIRCUIT COURT FOR THE  
4 COUNTY IN WHICH THE PRINCIPAL PLACE OF BUSINESS OR REGISTERED  
5 OFFICE OF THE ASSOCIATION OF CO-OWNERS IS LOCATED FOR AN ORDER TO  
6 COMPEL THE INSPECTION. IF THE CO-OWNER ESTABLISHES THAT THE CO-  
7 OWNER HAS COMPLIED WITH THE REQUIREMENTS OF SUBSECTION (2), THE  
8 COURT MAY ORDER THE ASSOCIATION OF CO-OWNERS TO PERMIT THE  
9 INSPECTION, PRESCRIBE CONDITIONS AND LIMITATIONS ON THE INSPECTION,  
10 AND AWARD FURTHER RELIEF THAT THE COURT CONSIDERS JUST AND PROPER.

11 (4) A DIRECTOR OF AN ASSOCIATION OF CO-OWNERS MAY INSPECT THE  
12 RECORDS OF THE ASSOCIATION OF CO-OWNERS DURING REGULAR BUSINESS  
13 HOURS FOR A PURPOSE REASONABLY RELATED TO HIS OR HER POSITION AS A  
14 DIRECTOR. THE DIRECTOR MAY APPLY TO THE CIRCUIT COURT FOR THE  
15 COUNTY IN WHICH THE PRINCIPAL PLACE OF BUSINESS OR REGISTERED  
16 OFFICE OF THE ASSOCIATION OF CO-OWNERS IS LOCATED FOR AN ORDER TO  
17 COMPEL THE INSPECTION. THE COURT MAY ORDER THE ASSOCIATION OF CO-  
18 OWNERS TO PERMIT THE INSPECTION, PRESCRIBE CONDITIONS FOR THE  
19 INSPECTION, AND AWARD FURTHER RELIEF THAT THE COURT CONSIDERS JUST  
20 AND PROPER.

21 (5) IF THE COURT ORDERS THE ASSOCIATION OF CO-OWNERS TO ALLOW  
22 THE INSPECTION OF RECORDS UNDER SUBSECTION (2) OR (4), IT SHALL  
23 ALSO ORDER THE ASSOCIATION OF CO-OWNERS TO PAY THE CO-OWNER'S OR  
24 DIRECTOR'S COSTS, INCLUDING REASONABLE ATTORNEY FEES, INCURRED TO  
25 OBTAIN THE ORDER. HOWEVER, THE COURT SHALL NOT ORDER THE PAYMENT OF  
26 THESE COSTS IF THE ASSOCIATION OF CO-OWNERS ESTABLISHES THAT IT  
27 FAILED TO PERMIT THE INSPECTION IN GOOD FAITH BECAUSE IT HAD A

1 REASONABLE BASIS TO DOUBT THE RIGHT OF THE CO-OWNER OR DIRECTOR TO  
2 INSPECT THE RECORDS DEMANDED.

3 (6) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ACT, THE  
4 ARTICLES OF INCORPORATION, THE BYLAWS, OR A RESOLUTION OF THE BOARD  
5 OF DIRECTORS, THE RECORDS KEPT BY OR ON BEHALF OF THE ASSOCIATION  
6 OF CO-OWNERS AND THE BOARD MAY BE WITHHELD FROM INSPECTION UNDER  
7 THIS SECTION TO THE EXTENT THAT THE PORTION WITHHELD RELATES TO ANY  
8 OF THE FOLLOWING:

9 (A) COMMUNICATIONS WITH LEGAL COUNSEL THAT ARE SUBJECT TO THE  
10 ATTORNEY-CLIENT PRIVILEGE OR ATTORNEY WORK PRODUCT PERTAINING TO  
11 PENDING LITIGATION OR OTHER MATTERS RELATED TO THE CONDOMINIUM  
12 PROJECT.

13 (B) MEETING MINUTES OR OTHER RECORDS OF AN EXECUTIVE SESSION  
14 OF A BOARD MEETING HELD TO DISCUSS AN OPINION OF LEGAL COUNSEL.

15 (C) SOCIAL SECURITY NUMBERS, BANK ACCOUNT NUMBERS, OR CREDIT  
16 CARD NUMBERS OF INDIVIDUAL CO-OWNERS.

17 (D) ANY RECORDS, WHICH IF DISCLOSED, WOULD VIOLATE STATE OR  
18 FEDERAL LAW.

19 (7) NOTWITHSTANDING THE ARTICLES OF INCORPORATION OR  
20 CONDOMINIUM DOCUMENTS OR ANY OTHER PROVISION OF THIS ACT, EXCEPT  
21 SUBSECTION (6), THE BOARD OF DIRECTORS OF AN ASSOCIATION OF CO-  
22 OWNERS MAY, BY RESOLUTION, PROHIBIT A CO-OWNER FROM INSPECTING THE  
23 RECORDS OF THE ASSOCIATION OF CO-OWNERS IF THE BOARD OF DIRECTORS  
24 DETERMINES IN GOOD FAITH THAT 1 OR MORE OF THE FOLLOWING APPLY TO  
25 THE PROPOSED INSPECTION:

26 (A) IT WOULD IMPAIR THE RIGHTS OF PRIVACY OR FREE ASSOCIATION  
27 OF THE CO-OWNERS.

1 (B) IT WOULD IMPAIR THE LAWFUL PURPOSES OF THE ASSOCIATION OF  
2 CO-OWNERS.

3 (C) IT IS NOT IN THE BEST INTERESTS OF THE ASSOCIATION OF CO-  
4 OWNERS.

5 (8) IF AN ASSOCIATION OF CO-OWNERS LIMITS THE INSPECTION OF  
6 THE LIST OF CO-OWNERS UNDER SUBSECTION (7), IT SHALL PROVIDE A  
7 REASONABLE MEANS FOR THE CO-OWNER TO COMMUNICATE WITH ALL OTHER CO-  
8 OWNERS CONCERNING THE ELECTION OF DIRECTORS AND OTHER AFFAIRS OF  
9 THE ASSOCIATION OF CO-OWNERS. THE ASSOCIATION OF CO-OWNERS MAY  
10 REQUIRE A CO-OWNER THAT WISHES TO COMMUNICATE WITH OTHER CO-OWNERS  
11 UNDER THIS SUBSECTION TO PAY THE REASONABLE COSTS OF LABOR AND  
12 MATERIALS AND THIRD-PARTY CHARGES INCURRED BY THE ASSOCIATION OF  
13 CO-OWNERS UNDER THIS SUBSECTION, INCLUDING A CHARGE FOR COPIES OF  
14 RECORDS PROVIDED TO A CO-OWNER AND FOR LABOR COSTS DIRECTLY  
15 ASSOCIATED WITH SEARCHING FOR, LOCATING, AND EXAMINING THE RECORDS  
16 DEMANDED.

17 (9) AS USED IN THIS SECTION:

18 (A) "INSPECTION" INCLUDES COPYING, MAKING EXTRACTS, AND, IF  
19 REASONABLE, REQUIRING THE ASSOCIATION OF CO-OWNERS TO SUPPLY COPIES  
20 MADE BY PHOTOGRAPHIC, XEROGRAPHIC, OR OTHER MEANS. "INSPECT" HAS A  
21 CORRESPONDING MEANING.

22 (B) "PROPER PURPOSE" MEANS A PURPOSE THAT IS REASONABLY  
23 RELATED TO A CO-OWNER'S INTEREST AS A MEMBER OF THE ASSOCIATION OF  
24 CO-OWNERS.

25 (C) "RECORDS" MEANS BOOKS, CONTRACTS, FINANCIAL STATEMENTS, A  
26 LIST OF CO-OWNERS, OR OTHER RECORDS CONCERNING THE ADMINISTRATION  
27 OR OPERATION OF A CONDOMINIUM PROJECT.

1           Sec. 90. (1) The condominium documents may be amended **FOR A**  
2 **PARTICULAR PURPOSE** without the consent of co-owners or mortgagees  
3 if the amendment does not materially alter or change the rights of  
4 a co-owner or mortgagee and if the condominium documents ~~contain a~~  
5 ~~reservation of~~ **RESERVE TO THE DEVELOPER OR THE ASSOCIATION OF CO-**  
6 **OWNERS** the right to amend **THE CONDOMINIUM DOCUMENTS** for that  
7 purpose. ~~to the developer or the association of co-owners.~~ An  
8 amendment that does not materially change the rights of a co-owner  
9 or mortgagee includes, but is not limited to, a modification of the  
10 types and sizes of unsold condominium units and their appurtenant  
11 limited common elements.

12           (2) Except as provided in this section, the master deed,  
13 bylaws, and condominium subdivision plan may be amended, even if  
14 the amendment will materially alter or change the rights of the co-  
15 owners or mortgagees, with the consent of not less than 2/3 of the  
16 votes of the co-owners and mortgagees. A mortgagee shall have 1  
17 vote for each mortgage held. The 2/3 majority required in this  
18 section may not be increased by the terms of the condominium  
19 documents, and a provision in any condominium documents that  
20 requires the consent of a greater proportion of co-owners or  
21 mortgagees for the purposes described in this subsection is void  
22 and is superseded by this subsection. Mortgagees are not required  
23 to appear at any meeting of co-owners except that their approval  
24 shall be solicited through written ballots. Any mortgagee ballots  
25 not returned within 90 days of mailing shall be counted as approval  
26 for the change.

27           (3) The developer may reserve, in the condominium documents,

1 the right to amend materially the condominium documents to achieve  
2 specified purposes, except a purpose provided for in subsection  
3 (4). Reserved rights shall not be amended except by or with the  
4 consent of the developer. If a proper reservation is made, the  
5 condominium documents may be amended to achieve the specified  
6 purposes without the consent of co-owners or mortgagees.

7 (4) The method or formula used to determine the percentage of  
8 value of units in the project for other than voting purposes shall  
9 not be modified without the consent of each affected co-owner and  
10 mortgagee. A co-owner's condominium unit dimensions or appurtenant  
11 limited common elements may not be modified without the co-owner's  
12 consent.

13 (5) Co-owners shall be notified of proposed amendments under  
14 this section not less than 10 days before the amendment is  
15 recorded. **NOTICE SHALL BE PROVIDED BY HAND DELIVERY, FIRST-CLASS  
16 MAIL, OR, SUBJECT TO SECTION 15(2), ELECTRONIC TRANSMISSION.**

17 (6) A person causing or requesting an amendment to the  
18 condominium documents ~~shall be~~ **IS** responsible for ~~costs and~~  
19 expenses of the amendment. ~~except for amendments~~ **HOWEVER,**  
20 **EXPENSES OF AN AMENDMENT** based upon a vote of a prescribed majority  
21 of co-owners and mortgagees or based upon the advisory committee's  
22 decision ~~the costs of which are~~ expenses of administration.

23 (7) A master deed amendment, including the consolidating  
24 master deed, dealing with the addition, withdrawal, or modification  
25 of units or other physical characteristics of the project shall  
26 comply with the standards prescribed in section 66 for preparation  
27 of an original condominium subdivision plan for the project.

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

4           Sec. 91. (1) An amendment to the master deed or other recorded  
5 condominium document ~~shall not be~~ **IS NOT** effective until the  
6 amendment is recorded.

7           (2) A copy of the recorded amendment shall be delivered to  
8 each co-owner of the project **BY HAND DELIVERY, FIRST-CLASS MAIL,**  
9 **OR, SUBJECT TO SECTION 15(2), ELECTRONIC TRANSMISSION.**

10           Enacting section 1. This amendatory act takes effect 90 days  
11 after the date it is enacted into law.