

REAL ESTATE

AMENDMENT TO MICHIGAN CONDOMINIUM ACT CLARIFIES AUDIT REQUIREMENTS FOR CONDOMINIUM ASSOCIATIONS

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The Michigan Legislature has passed an amendment to Section 57 of the Michigan Condominium Act (MCL 559.157) which is intended to clarify the annual audit responsibilities for condominium associations. Michigan Public Act No. 134 is effective January 14, 2014.

Previously, MCL 559.157 required condominium associations to make their books, records, and contracts concerning the administration and operation of the condominium project available for examination by co-owners and their mortgagees, and also to have the books and records "independently audited or reviewed each year." However, many associations, especially those with small revenues, were unaware of the audit requirements and were operating in violation of the law.

While the audit requirement was intended to provide a level of consumer protection against potential fraudulent uses of funds that are controlled by condominium association boards, many certified public accountants believed the statute needed to be updated to remove outdated terms and also to clarify the responsibilities of condominium associations under the Condominium Act.

To that end, the Legislature made the following changes to Section 57 of the Condominium Act:

- Associations of co-owners with more than \$20,000 in annual revenue are now required to have their books, records, and financial statements audited or reviewed by a certified public accountant. The audit or review must be conducted in accordance with the statements on standards set forth by the American Institute of Certified Public Accountants. This is a change to current law, which would require all associations to have audits or reviews performed annually, and no express standards by which those audits or reviews must be conducted.
- Associations of co-owners may opt out of the above requirement annually by an affirmative vote of a majority of its members or by any means permitted under the association's bylaws.
- Lastly, financial statements are expressly included as one of the items that must be made available for inspection by co-owners and mortgagees. Previously, only an association's "books and records" were expressly included in the statutory language.

With these changes, the Legislature hopes to provide condominium associations with greater flexibility and clarity while encouraging transparency.

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