# CONDOMINIUM ACT
# FREQUENTLY ASKED QUESTIONS

**What is the role of the Michigan Department of Licensing and Regulatory Affairs (LARA)?**
The role of the Office of Policy & Legislative Affairs within LARA includes the creation of the Condominium Buyer's Handbook to be distributed by developers to potential buyers, the distribution of copies of the Act and Administrative Rules when requested, and the maintenance of the Condominium web site for additional resources, information, and assistance.

## I. Questions from Condominium Owners

**How do I get a copy of my financial statements/audits?**
Section 54 of the Act states that the bylaws must contain provisions requiring the association or management company to keep books and records with a detailed account of the expenditures and receipts affecting the condominium development and specify the operating expenses.

Section 54 also states that the association of co-owners must give each owner a financial statement once a year.

Section 57 of the Act provides that all books, records, contracts, and financial statements concerning the administration and operation of the condominium project shall be available for examination by any of the co-owners at convenient times. In 2013, a legislative change added subsections (2) and (3). Subsection (2) provides that an association of co-owners with annual revenues of more than $20,000 shall have its books, records, and financial statements independently audited or reviewed by a certified public accountant annually. Subsection (3) provides that on an annual basis by affirmative vote, co-owners association may opt out of the requirements in Subsection (2).

**How do I file a complaint against my Condominium Association?**
LARA has no authority to take complaints or enforce any requirements of the Condominium Act regarding the actions of condominium associations. The bylaws for each condominium development provide legal requirements for association actions. The bylaws must contain procedures for arbitration of disputes between a co-owner and an association. Only a court can order an association to comply with the Act, administrative rules, and bylaws.

Section 107 of the Act gives a co-owner authority to take action in circuit court against the association of co-owners and its officers and directors to compel them to enforce the provisions of the condominium documents or the Act itself. The condominium documents are comprised of the master deed and association bylaws. Your bylaws must have provisions for disputes between a co-owner and the association.

**How do I file a complaint against a developer?**
If this office receives a complaint regarding a condominium developer, it forwards that complaint to the developer and sends a *Notice of Available Remedies Under the Condominium Act* to both the complainant and the developer. This office has no authority to investigate a complaint further or take any enforcement action concerning any condominium project.

## II. Questions from Developers

**How do I get copies of the Condominium Buyer's Handbook**

The developer must provide a prospective purchaser with a copy of the Condominium Buyer's Handbook, as required in Section 84a of the Act. The Handbook may be downloaded from the LARA web page at www.michigan.gov/condo.

**What are the requirements for notifying State & Local Governments of an intent to develop a condominium project?**

Section 71 of the Act requires notification to the following state and local governments:

1. The appropriate city, village, township, or county. Contact the local government where the development is located to determine whom to notify and what information they request. If the township does not administer its own zoning ordinance, the county may administer it.
2. The appropriate county road commission and county drain commission. Contact the county where the development is located to determine what information they request.
3. The Michigan Department of Environment, Great Lakes, and Energy (EGLE):

Environmental Health Programs Unit
Attn: Onsite Wastewater Program
Drinking Water and Environmental Health Division
Michigan Department of Environment, Great Lakes, and Energy
P.O. Box 30817
Lansing, Michigan 48909-8311

If any portion of your condominium development impacts: a regulated floodplain, wetland, lake, stream, or dam; or high-risk erosion, critical dune, or designated environmental area, a permit from the Land and Water Management Division is required. A permit application and appendices can be downloaded from the Division's home page at https://www.michigan.gov/egle/about/organization/Water-Resources/Joint-Permit-Application. The Division's telephone number is (517) 284-5499.

4. The Michigan Department of Transportation's Regional Transportation Service Center. For more information on the locations of the MDOT Transportation Service Centers and the documents required to submit with the notice, visit https://www.michigan.gov/mdot/business/preliminary-plat-and-condominium-review.

**What are the requirements for the subdivision plan's cover sheet and survey plan?**

The Condominium Act of 1978, PA 59, was amended in 2015, PA 170. The amendment requires licensed professional architects, surveyors, or engineers to prepare condominium subdivision plans. The amendments requires a condominium subdivision plan's cover sheet to contain a notice about detailed project design plans and a list of all documents included in the subdivision plan. The notice should read as follows:

> This condominium subdivision plan is not required to contain detailed project design plans prepared by the appropriate licensed design professional. Such project design plans are filed, as part of the construction permit application, with the enforcing agency for the state construction code in the relevant governmental subdivision. The enforcing agency may be a local building department or the state Department of Licensing and Regulatory Affairs.

A condominium subdivision survey plan must be signed and sealed by the licensed professional surveyor preparing the boundary survey for the project.

**What is a conversion condominium?**

Section 71 notification requirements also apply to conversion condominiums. For conversion condominiums where detailed architectural plans and specifications are unavailable, the developer must file an affidavit stating that fact with the local unit of government.

Section 84a(e) lists additional information the developer must supply to a purchaser if a project is a conversion condominium.

Sections 104 and 104a through 104e explain the developer's obligations to notify tenants and explain the rights of tenants. Tenants have the right to remain in the unit for a minimum of 120 days or until the expiration of the term of the lease, whichever is longer. The tenancy of a person 65 years or older, paraplegic, quadriplegic, hemiplegic, or blind, shall not be terminated without cause within one year of notice. A person with disabilities has 60 days after receiving notice to enter an extended lease arrangement. Under an extended lease arrangement, the tenant may renew a lease year to year for four years.

**What is a business condominium?**
A business condominium unit is defined as a unit with a sales price of more than $250,000 and is intended to be used for other than residential or recreational purposes.

Purchase agreements for business condominiums are binding. Purchasers do not have the option to withdraw from a signed purchase agreement for a business condominium unit within nine business days.

Section 84a of the Act does not apply to business condominiums. The developer is not required to provide prospective purchasers with the Condominium Buyer's Handbook and other items listed in Section 84a.

For conversion of a business condominium, Section 104(2) requires the developer to notify each tenant of the conversion and provide the tenant with the right to terminate tenancy upon 60 days' notice to the developer. The developer may not terminate the tenancy without cause within 120 days after delivery of the notice or until the expiration of the term of the lease, whichever is longer.

## III. Questions from Condominium Associations

**What are the requirements of a condominium association?**
The Act requires the association of co-owners to keep current copies of the master deed, all amendments to the master deed, and other condominium documents available for review by co-owners, prospective purchasers, and prospective mortgagees.

The association must maintain a reserve fund for major repairs and replacement of common elements. Rule 511 states that the reserve fund must be at a minimum of 10% of the association's current annual budget on a noncumulative basis.

**Does an association have to become incorporated?**
Associations are not required by law to incorporate, but many are incorporated as nonprofit corporations. If an association wishes to incorporate, they may do so by contacting LARA's Corporation Division at (517) 241-6470.

Rule 501 states that if the association is a corporation, the corporation's bylaws are separate from the condominium bylaws.

**How do we amend our association bylaws?**
If you wish to initiate the procedure to amend your bylaws, see Sections 90 and 91 of the Act. They describe the limitations and procedures for adopting amendments. The condominium documents may be amended without the consent of co-owners or mortgagees if the amendment does not materially

alter or change the right of a co-owner or mortgagee and if the condominium documents contain a reservation of the right to amend for that purpose.

**What is the procedure for collecting past-due assessments from tenants?**
Section 112(5) of the Act provides a procedure for the association of co-owners to collect assessments directly from the tenant instead of the tenant making rental payments to the co-owner. When a co-owner is in arrearage to the association, the association may give written notice of the arrearage to a tenant occupying a co-owner's condominium. The tenant shall deduct from rental payments due the co-owner the arrearage and future assessments as they fall due and pay them to the association. The deduction does not constitute a breach of the rental agreement or lease. If the tenant, after being notified, fails to remit rent due to the co-owner to the association, the association can take further action as described in Section 112.

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