

# HOUSE BILL NO. 4417

March 02, 2021, Introduced by Rep. Anthony and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1978 PA 59, entitled  
"Condominium act,"  
by amending section 90 (MCL 559.190), as amended by 2002 PA 283.

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

1       Sec. 90. (1) The condominium documents may be amended without  
2       the consent of co-owners or mortgagees if the amendment does not  
3       materially alter or change the rights of a co-owner or mortgagee  
4       and if the condominium documents contain a reservation of the right  
5       to amend for that purpose to the developer or the association of

co-owners. An amendment that does not materially change the rights of a co-owner or mortgagee includes, but is not limited to, a modification of the types and sizes of unsold condominium units and their appurtenant limited common elements.

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consent of a greater proportion of co-owners or mortgagees for the purposes described in this subsection is void and is superseded by this subsection.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

(3) The developer may reserve, in the condominium documents, the right to amend materially the condominium documents to achieve specified purposes, except a purpose provided for in subsection

(4). ~~Reserved~~ **Except as provided in subsection (9), reserved** rights ~~shall~~ **may** not be amended except by or with the consent of the developer. If a proper reservation is made, the condominium documents may be amended to achieve the specified purposes without the consent of co-owners or mortgagees.

(4) The method or formula used to determine the percentage of value of units in the project for other than voting purposes ~~shall~~

1 **may** not be modified without the consent of each affected co-owner  
2 and mortgagee. A co-owner's condominium unit dimensions or  
3 appurtenant limited common elements may not be modified without the  
4 co-owner's consent.

5 (5) Co-owners ~~shall~~**must** be notified of proposed amendments  
6 under this section not less than 10 days before the amendment is  
7 recorded.

8 (6) A person causing or requesting an amendment to the  
9 condominium documents ~~shall be~~**is** responsible for costs and  
10 expenses of the amendment, except for amendments based ~~upon~~**on** a  
11 vote of a prescribed majority of co-owners and mortgagees, ~~or~~  
12 **amendments** based ~~upon~~**on** the advisory committee's decision, ~~or~~  
13 **amendments under subsection (9)**, the costs of which are expenses of  
14 administration.

15 (7) A master deed amendment, including the consolidating  
16 master deed, dealing with the addition, withdrawal, or modification  
17 of units or other physical characteristics of the project ~~shall~~  
18 **must** comply with the standards prescribed in section 66 for  
19 preparation of an original condominium subdivision plan for the  
20 project.

21 (8) For purposes of this section, the affirmative vote of a  
22 2/3 of co-owners is considered 2/3 of all co-owners entitled to  
23 vote as of the record date for such votes.

24 (9) **The amendment of the condominium documents to remove a**  
25 **prohibited restriction under the prohibited restrictive covenants**  
26 **act does not require the consent of co-owners or mortgagees, and**  
27 **may be accomplished as provided in the prohibited restrictive**  
28 **covenants act.**

29 Enacting section 1. This amendatory act does not take effect

- 1 unless Senate Bill No.\_\_\_\_ or House Bill No. 4416 (request no.
- 2 00461'21) of the 101st Legislature is enacted into law.