

Legislative Analysis



MARKETABLE RECORD TITLE ACT

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House Bill 5260 as referred to second committee
Sponsor: Rep. Brad Paquette
1st Committee: Local Government and Municipal Finance
2nd Committee: Ways and Means
Complete to 8-30-20

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 5260 would amend the Marketable Record Title Act to prohibit the act from being used to bar the enforcement of any provision contained in or referred to in a recorded master deed for a condominium and its recorded amendments.

FISCAL IMPACT: The bill would have no known fiscal impact on the state or local units of government.

THE APPARENT PROBLEM:

Condominium associations are formed by groups of property owners who operate under a certain set of rules. All members pay a fee, which covers maintenance, insurance, and other costs associated with the property. While this provides a benefit—since, for instance, the cost of pool maintenance or a new roof is shared by all members of the association—it also comes with restrictions on the property, such as home color, landscaping, and other allowable improvements.

According to committee testimony, following amendments to the Marketable Record Title Act in the 2017-18 legislative session,¹ there is a concern that restrictions could be removed for real property included in condo associations. Typically, the Condominium Act indicates that the restrictions exist forever. However, the recent amendments to the MRTA may be understood to indicate that if the membership in the condo association—or any specific rules under that association—are not reported accurately in the chain of title, they may be removed if the defect occurred in the previous 40 years. The ability of a single property owner to “opt out” of the association would affect the property rights of all other members, which some feel was an unintended consequence of the recent amendments.

In other words, the two acts may be seen as conflicting, and the bill is intended to remove any confusion.

CONTENT OF THE BILL:

Generally, the Marketable Record Title Act concerns marketable record title, which is an ownership interest in land that can be transferred to a new owner without the likelihood that another person will claim an interest in the property. Under the act, a person possesses a marketable record title to an interest in land if he or she has an unbroken chain of title to the interest for 40 years or, for mineral interests, 20 years.

¹ House Fiscal Agency analysis of 2018 PA 572/SB 671: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-0671-7FCBEF78.pdf>

House Bill 5260 would prohibit the act from being used to bar the enforcement of any provision contained in or referred to in a recorded master deed for a condominium and its recorded amendments.

MCL 565.104

ARGUMENTS:

For:

Supporters asked that the bill be expanded to include homeowners associations as well, as they are similar to condo associations and face the same concerns. Just as condo property owners could potentially “opt out” of the association due to defects in the marketable title under the changes to the MRTA, so, too, could members of a homeowners association. Additionally, the argument could be made that a bill resolving the issue for condo associations and omitting homeowners associations showed an intent that they operate under different sets of rules.

POSITIONS:

The Community Associations Institute testified in support of the bill. (1-22-20)

The following entities indicated support for the bill (1-22-20):

Michigan Bankers Association
The Meisner Law Group

Representatives of the Michigan Realtors’ Association testified and indicated a neutral position on the bill. (1-22-20)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.