HOUSE DOCKET, NO. 3002 FILED ON: 2/18/2011

HOUSE . . . . . No. 3278

The Commonwealth of Massachusetts

PRESENTED BY:

Matthew A. Beaton

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to condominium elections.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Matthew A. Beaton	*11th Worcester*

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HOUSE . . . . . No. 3278

By Mr. Beaton of Shrewsbury, a petition (accompanied by bill, House, No. 3278) of Matthew A. Beaton relative to condominium elections. Housing.

The Commonwealth of Massachusetts

An Act relative to condominium elections.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 183A of the General Laws is hereby amended by adding the following section:-

Section 23. (a) Any election held by any organization of unit owners shall be decided by a plurality of those ballots cast on the day of the election or annual meeting; provided, that such ballots shall include absentee ballots. There shall be no quorum requirement for any such election. Owners who are in attendance at the election or annual meeting and those valid absentee ballots received by the election inspector by the day of the election or Annual Meeting shall constitute a quorum. For the purposes of this section, the term election inspector shall mean an election inspector appointed pursuant to subsection (s). Unit owners not in attendance and who have not submitted an absentee ballot forfeit their right to vote in the election.

(b) No proxy ballots are to be allowed and no unit owners are permitted to designate their vote to another unit owner. Unit owners no present to vote at the meeting in person shall comply with the absentee ballot procedure in subsections (l) to (o), inclusive.

(c) Notice of annual meeting shall include a call for nominations notice if there are available board of trustee positions to fill and an election is scheduled to occur. The notice shall be sent no less than 45 days before the date of the annual meeting.

(d) Any unit owner wishing to be considered as a candidate for a board position shall notify the organization of unit owners in writing not less than 20 days before the election by one of the following methods of delivery: (1) in hand; (2) by certified mail with return receipt; (3) by electronic mail with an electronic mail reply received from the organization of unit owners that the notification was received; or (4) regular United States mail with a written receipt of acknowledgement from the organization of unit owners.

(e) A second notice shall be sent out to all unit owners no less than 14 days prior to the annual meeting or election indicating the names of all unit owners who responded to the call for

24 nominations and who wish to run for a board position. An absentee ballot shall be included in
25 this second notice with clearly stated instructions on how to return the absentee ballot to the
26 election inspector. The absentee ballot should include the names of all candidates, their address
27 and their length of time on the board. The absentee ballot shall indicate the number and length
28 of the board members terms that are expiring. If a unit owner candidate has included a 1 page
29 resume or biography, this shall be included in the notice.

30 (f) The call for nominations shall be a formal notice sent to all owners asking those
31 interested in board service submit a statement of interest. This notice shall indicate the number
32 and length of the board members terms that are expiring. Nominations received by the
33 association at least 14 days before mailing the election notice shall be listed on the ballot and
34 included with any absentee ballots that are mailed or otherwise distributed. Upon request of a
35 candidate, the organization of unit owners shall include an information sheet on a 81/2 by 11
36 inch piece of paper, which shall be furnished by the candidate not less than 30 days before the
37 election. This informational sheet shall be included with any absentee ballots mailed or
38 otherwise distributed. The board candidate's information sheet shall provide the candidate's
39 name, address, experience, and the reasons for wanting to serve on the board. Upon distribution
40 to unit owners, any and all candidate's information sheet shall be printed on a single-sided sheet
41 of paper and placed in alphabetical order in any mailing or distribution.

42 (g) A board candidate elect shall meet the following criteria to qualify: (1) be up-to-date
43 in their assessments and condominium maintenance fees; (2) be a current unit owner; (3) be up to
44 date on city or town property tax assessments; and (4) not be subject to a current foreclosure
45 action.

46 (h) In the event that an organization of unit owners is unable to find a unit owner willing
47 to run for the position of trustee after 2 written or electronic mail attempts; provided, that 1 of
48 such attempts shall be in the form of a written call for nominations letter mailed to all unit
49 owners, the board may solicit other board candidates who are non-unit owners, contractors or
50 vendors. Preference for board positions shall be reserved for a unit owner first and board
51 members who are not unit owners should be reserved only when no unit owner is willing or able
52 to join the board.

53 (i) There shall be no write-in candidates on any ballot or in any election.

54 (j) If a candidate for trustee chooses to be elected for a specific board this preference shall
55 be made known when responding to the call for nominations notice. This preference shall be
56 documented on any ballot, candidate list or form regarding the election. If the call for
57 nominations reveals that 2 candidates for trustee are seeking the same position on the board, the
58 preference shall be given to the candidate receiving the higher number of unit owner votes in the
59 election or annual meeting.

(k) Any member of the board seeking a new or different position on the current board or if there is any dispute of the board with regard to who shall hold the position this question shall be voted upon by the unit owners at the next scheduled annual meeting. No quorum shall be required and the absentee ballot process shall be followed in the same manner as if a regular annual meeting or election was held. Those individuals seeking a new or different board position may provide a candidate information sheet pursuant to the requirements in subsection (f).

(l) Not less than 14 days prior to the organization of unit owners annual meeting or election, a second notice shall be sent to all unit owners listing the names of all valid unit owner candidates who responded to the call for nominations letter and who wish to run for a board position. An absentee ballot shall be included in the second notice with instructions on how to return the absentee ballot to the election inspector and a specific mailing address to which the absentee ballot shall be mailed.

(m) The absentee ballot shall include the names of all candidates, their address and their length of time on the board. The absentee ballot shall indicate the number and length of the board members terms that are expiring. If a unit owner candidate has included a 1 page resume or biography, this shall be included in second notice. No absentee ballots shall be received, opened or evaluated by any standing board member or the current property management company.

(n) In the event that a unit owner or board candidate cannot attend the annual meeting or election in person, a completed absentee ballot may be returned by 1 of the following methods: (1) mailed or delivered in hand to the election inspector or (2) submitted in a sealed envelope, signed across the seal of the envelope to any other unit owner who is not a standing board member for submission election inspector at the annual meeting.

(o) For the absentee ballot to be considered valid, it shall be submitted to the election inspector in a sealed envelope, signed across the back by the absentee unit owner. An absentee ballot may be revoked at any time by the unit owner. Any absentee ballot received, handled or viewed by any entity currently receiving payment for service by the current board shall be void.

(p) Any blank ballots delivered to the election inspector shall be considered void and none are to be submitted or accepted at any time by the election inspector for purposes of this or any board election. At no time shall any ballot of any kind be given, delivered, faxed or mailed to any entity currently receiving payment for services by the current board.

(q) Each candidate for Trustee shall have at least 3 minutes to address the voting unit owners; provided, however that this time shall not be used to endorse other trustee candidates or to encourage the voting public or unit owners to vote for any particular candidate.

(r) There shall be no talking by any voting party, any employee of the board, any attorneys or any volunteers during the time from when the ballots are distributed to when the ballots are collected by the election inspector. During the voting process, any question about the

96 ballot or candidates should be directed only to the election inspector overseeing the election and
97 no other party.

98 (s) An organization of unit owners shall appoint 1 or 3 election inspectors to oversee the
99 elections. An election inspector shall be someone who is not affected by the outcome of the
100 election, not currently contracted to perform any service of the organization of unit owners and
101 not receiving any payment, fees or services from any member of the current board or any
102 property management company with the exception of any reasonable and customary
103 compensation for the specific task of overseeing the election process of the organization of unit
104 owners. Election inspectors shall not have a personal relationship or other conflict of interest
105 with any sitting member of the board, board candidate or the property management company
106 associated with the board. Election inspectors shall do the following: (1) determine the number
107 of unit owners entitled to vote and the voting power of each; (2) determine the authenticity,
108 validity, and effect of ballots received; (3) receive ballots; (4) hear and determine all challenges
109 and questions in any way arising out of or in connection with the right to vote; (5) count and
110 tabulate all votes; (6) determine when the polls shall close; (7) determine the result of the
111 election; and (8) perform any acts as may be proper to conduct the election with fairness to all
112 members in accordance with this section and all applicable rules of the organization of unit
113 owners regarding the conduct of the election that are not in conflict with this section.

114 (t) Votes shall be counted the same day of the election and preliminary results pending
115 any required verification by the election inspector of the validity of returned ballots including the
116 number of votes for each candidate and announced publicly at the annual meeting or election.
117 Any candidate, or designated candidate representative in the event a candidate cannot be present,
118 who wishes to remain present for the counting of the votes and the preliminary results shall have
119 the right to do so without restriction.

120 (u) Final election results shall be announced within 3 days of the election, after
121 verification of validity of all ballots by the election inspector. If final verification of validity of
122 all ballots returned will be done on a single day, any candidate shall have the right to remain
123 present for this procedure and the announcement of the final results. If any ballots are deemed
124 invalid by the election inspector, any candidate receiving 1 of the invalid ballots specified, shall
125 have the right to view the original ballot and obtain a photocopy of the ballot upon request.
126 Trustees shall be elected by a plurality of the votes.

127 (v) Any unit owner, who is elected to the board, shall immediately forfeit this position in
128 event that the unit, which such person owns, is foreclosed upon or sold. A call for nominations
129 and subsequent election shall be held to fill any such vacancy created in this manner.