

SENATE No. 628

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

AN ACT RELATIVE TO THE DETERMINATION OF CONDOMINIUM COMMON AREA INTEREST..

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

1 SECTION 1. Subsection (a) of Section 5 of Chapter 183A of the General Laws, as
2 appearing in the 2006 Official Edition, is hereby amended by inserting at the end of the second
3 sentence, after “units”, the following new clause:—

4 ,and may include determinations of whether and how to weigh a restriction relating to
5 value imposed on one or more, but fewer than all, units by covenant, agreement or otherwise.

6 SECTION 2. Subparagraph (1) of subsection (b) of Section 5 of Chapter 183A of the
7 General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting at the
8 end of the first sentence, after “therefrom” the following new clause:—

9 ; and provided further, that readjustment of one or more unit’s percentage interest solely
10 to reflect release or termination of a restriction previously imposed on the unit by covenant,
11 agreement or otherwise that was a factor for reduction of that percentage interest, with
12 proportionate adjustment only to each other unit’s percentage interest, if not otherwise provided
13 for in the master deed, may be made by vote of 75 per cent or such other per centage of unit

14 owners as is required to amend the master deed generally, whichever is less, and the consent of
15 51 per cent of the number of all mortgagees holding first mortgages on units within the
16 condominium who have given notice of their desire to be notified as provided in subsection (5)
17 of Section 4 is obtained, any such re-adjustment to be effective on the date the amendment is
18 recorded in the appropriate registry of deeds or land registration office or such later date as may
19 be stated in the amendment, provided that, in the case of re-adjustment following expiration of a
20 term of years stated in the restriction, such re-adjustment shall be effective on such date as
21 aforesaid or one year after termination of the restriction, whichever is later.

22 SECTION 3. Subsection (a)(i) of Section 6 of Chapter 183A of the General Laws is
23 hereby amended by deleting the first sentence and inserting the following new first sentence in
24 its place:—

25 Except as provided in clause (ii) herein, all common expenses must be assessed against
26 all units either in accordance with their respective percentages of undivided interest in the
27 common areas and facilities or, if stated in the master deed or an amendment thereto duly
28 recorded in the approximate relation that the area of the unit bears to the aggregate area of all the
29 units, which may take into account unit location, amenities in the unit, and limited common areas
30 and facilities benefiting the unit; provided that such an amendment shall require the consent of
31 all unit owners whose common expense assessment is materially affected.