SENATE DOCKET, NO. 1692 FILED ON: 1/14/2009

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:

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

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

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

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

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

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

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