

HOUSE No. 3357

The Commonwealth of Massachusetts

PRESENTED BY:

Paul McMurtry

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 adoption of the accompanying bill:

An Act relative to a bill of rights for condominium owners.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>1/21/2011</i>

HOUSE No. 3357

By Mr. McMurtry of Dedham, a petition (accompanied by bill, House, No. 3357) of Paul McMurtry relative to the rights of condominium owners. Housing.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to a bill of rights for condominium owners.

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 (c) of section 10 of chapter 183A of the general laws, as
2 appearing in the 2008 Official Edition, is hereby amended by striking out clause (3) and inserting
3 in place thereof the following clause:-

4 (3) the minute book, which shall be kept and maintained by the organization of unit
5 owners; provided that such minute book shall be posted in a common area of the building; and.

6 SECTION 2. The second sentence of the second paragraph of said subsection (c) of said
7 section 10 of said chapter 183A, as so appearing, is hereby amended by inserting after the word
8 “request”, in line 90, the following words:- ; provided, that such expense shall be a reasonable
9 fee which shall be no greater than a per page photocopy fee of the library in the city or town
10 where the building is located.

11 SECTION 3. Subsection (f) of said section 10 of said chapter 183A, as so appearing, is
12 hereby amended by striking out clause (1) and inserting in place thereof the following clause:-

(1) render at least monthly, or less frequently in accordance with subsection (m), but in no case less frequently than quarterly, a written report to the trustees or the managing board of the organization of unit owners detailing all receipts and expenditures on behalf of the organization, including beginning and ending balances and copies of all relevant bank statements and reconciliations for the replacement reserve fund and any other funds of the organization for which the manager or managing agent has responsibility; provided, that such report shall also contain the reserve fund minimum balance and building value; and

SECTION 4. Said chapter 183A is hereby further amended by adding the following section:-

Section 23. (a) The organizational and operating documents of every condominium established or operating pursuant to the laws of the commonwealth shall guarantee the following to each unit owner:

(1) that all applications by unit owners in connection with matters which require approval of the manager and all requests for determinations by the manager including but not limited to requests for the resolution of disputes between or among unit owners, disputes between unit owners and the condominium association such as disputes concerning responsibility for repairs shall be processed in a reasonably expeditious manner pursuant to uniform procedures and timetables adopted in writing. The manager's decision shall be in writing and shall set forth the reasons therefor, except that no reason shall be required when approval is granted;

(2) that the final results of any election, including a tally of the votes received by each candidate, shall be posted within 1 business day following the availability of such information in a prominent place accessible to all unit owners in each building;

(3) that the organization of unit owners shall call a meeting to fill any vacancies which occur on the board within 60 days of the occurrence of such vacancy if the vacancy occurs more than 6 months prior to the annual meeting of unit owners;

(4) that any member of a board who is elected while a unit owner in the condominium, who sells his or her apartment, and who, subsequent to such sale shall no longer be a unit owner in such condo minimum, shall resign from such board no later than the closing date of such sale;

(5) that complete and accurate financial statements and any other statements ordinarily provided to unit owners be provided in a timely fashion pursuant to section 10 and established timetables. For the purposes of this clause financial statements shall include the balance sheets and statements of income and expense for each of the 3 most current fiscal years and the information in subsection (f) of section 10. Attached to said financial statements shall be a statement which discloses (i) any controlling interest or employee or agency relationship which any board member or officer of the condominium association or the spouse of such person has in or with any supplier of services or materials to said condominium and (ii) any consideration the value of which exceeds \$100 which any such board member or officer or the spouse of such person receives from such supplier;

(6) that the following documents be made available for inspection or copying by unit owners during regular business hours on no more than 10 days written notice to the board: (i) approved minutes of board of managers meetings, provided that such board shall have 30 days

from the dates of the meetings at which the minutes are approved to prepare such minutes and provided further that the board may exclude matters which it deems confidential or which were discussed in executive session; (ii) detailed, accurate records, in chronological order, of the receipts and expenditures arising from the operation of the property; (iii) bank account and financial investment statements; and (iv) all proposals received in response to a request for bids to provide goods or services to the condominium the cost of which is reasonably expected to exceed five thousand dollars in any 1 year; provided, that such documents shall be made available within 10 days of receipt unless the board chooses to conduct closed competitive bidding in which case the documents shall be made available within 10 days of the selection of the successful bid; (v) reports of accountants, consultants and experts retained or hired to perform services for or on behalf of the association including financial statements as defined in this section provided, however, that such reports may be withheld when a majority of the members of the board has voted to withhold such information. When the matter concerns alleged conflict of interest or malfeasance involving board members the report may be withheld only upon a vote of the majority of disinterested board members. If all board members are interested parties the report may not be withheld; (vi) reports by board of health or building inspectors concerning compliance with health, building and housing codes and regulations; and

(vii) the records of decisions by the board of managers to exclude or withdraw materials pursuant to this section; provided, that such records shall be prepared in every instance that materials are withheld or excluded and the record shall include the general nature of the materials and the reason for withholding or excluding same;

(7) that in addition to any other notice required by the condominium association's organizational or operating documents, notice of all board and unit owner meetings shall be

80 posted in a prominent place accessible to all unit owners in each building comprising the
81 condominium; and

82 (8)(i) that the board of managers shall not impose special assessments, or enter into
83 contracts for extraordinary expenses the cost of which exceeds limits established pursuant to
84 subclause (ii) of this clause beyond customary operating or maintenance costs, without
85 approval by a vote of the unit owners. A vote of the unit owners may be waived by the board in
86 the case of an emergency evidenced by an approved resolution of the board, or a required
87 refinancing of an existing mortgage and (ii) unless the bylaws require a unit owner vote to
88 establish the limits referred to in subclause (i), the limits shall be established by the board of
89 managers as follows. No less than once in every 5 years the board shall propose limits which
90 shall be included in the notice of the annual or any other meeting of the unit owners. An
91 opportunity for unit owners to comment on such proposal and to offer lower limits shall be
92 included in the agenda for such meeting. At the conclusion of the comment period the board
93 shall, by an open vote, adopt limits not to exceed those proposed by the board which shall be
94 effective until changed pursuant to the provisions of this clause.

95 (b) The attorney general is authorized to enforce the provisions of this section and may,
96 upon his or her own initiative, or in response to a complaint by 1 or more unit owners,
97 investigate allegations of any failure to comply with the provisions of this section.