

HOUSE No. 4353

The Commonwealth of Massachusetts

PRESENTED BY:

Sheila C. Harrington, (BY REQUEST)

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 to protect condominium unit owners’ constitutional right.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Raymond M. Lee</i>	<i>38 Tarbell St Unit 2C, Pepperell MA 01463</i>	<i>2/18/2016</i>

HOUSE No. 4353

By Mrs. Harrington of Groton (by request), a petition (subject to Joint Rule 12) of Raymond M. Lee relative to condominium owners' rights. Housing.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to protect condominium unit owners’ constitutional right.

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

1 Chapter 183A of the general laws, as appearing in the 2012 Official Edition, is hereby
2 amended by inserting at the end thereof the following permanent last section:--

3 Section 99. The following are commentary on this chapter:

4 (a) Condominium is a real estate under two kinds of ownership defined in a master deed;
5 it is governed by an owners organization defined in the by-laws or declaration of owners
6 organization with by-laws; these documents are constituents of the condominium and must be
7 filed of record with the county registry of deeds by the property owner(s) for submitting the
8 property to be governed under the provisions of this chapter.

9 (b) The master deed shall clearly define elements of unit apart from elements of common
10 areas; for a condominium of multi-unit building(s), only fixtures, installations and equipments
11 used by one unit and floorings, wallboards, ceilings, railings and other exposed or non-rigid
12 building parts enclosing or within the boundaries of a unit may be elements of unit. All unit

13 elements are directly or indirectly attaching to common element(s), and are exclusively owned
14 by one unit's owner(s); all common elements are connecting to other common element(s) and not
15 depending on any unit element to exist, and are owned by all unit owners in common. The value
16 of a unit is the value of its owner's proportionate interest in common areas plus the value of its
17 unit elements; in property conveyance, wherever the value of a unit is required, the value of its
18 unit elements is required.

19 (c) For a wood-frame structure multi-unit building, the wood framework enforced with
20 wood boards is an assembly of beams, columns and supports, and is necessary for the building's
21 existence. It must be built as a whole to maintain its strength and rigidity, and shall be treated as
22 a whole of common areas.

23 (d) Proportionate interests of unit owner in common areas and facilities shall be close to
24 the ratio of value of his unit to the value of the condominium and equal the ratio of value of his
25 unit minus the value of his unit's elements of unit to the aggregate value of all units minus
26 aggregate value of all units' elements of unit; and the cost for maintenance of common areas and
27 facilities shall be responsible by all unit owners on proportion equal to the proportionate interest
28 of unit owner in common Areas and facilities.

29 (e) The condominium's owner who may be the declarant, declarant's successor, or all
30 unit owners shall create a corporation, trust or association to manage the condominium; the
31 board of such corporation, trust or association is an agent while the owner or owners assembly is
32 the principal; the board of such owners organization is empowered through the by-laws or
33 declaration of owners organization with by-laws on which shall provide the percentages of total

34 ownership of approval required for annual budget, collecting fees, hiring managing agent, and
35 adopting rules respectively.

36 (f) The condominium management shall have full knowledge on condo total replacement
37 cost, common areas replacement cost, and current values (before and after replacement) of each
38 type of unit; while the master insurance policy shall fully cover just the replacement cost of the
39 common areas and facilities, and shall not prejudice the right of each unit owner to insure his
40 own unit elements without his consent. If seventy-five percent or such greater percentage of total
41 ownership as is stipulated in the by-laws request or approve, the master insurance policy may
42 also cover seventy-five percent or more units' unit elements and the increase of premium shall be
43 surcharged upon unit owners involved and proportionate to the value of unit elements of each of
44 their units.

45 (g) The master deed and by-laws or declaration of owners organization with by-laws are
46 made by the property owner(s). Amending these documents can only by the property owner(s)
47 through identifiable amendment or rewritten version signed by majority of the members of the
48 management board acknowledging approval of certain percentage of total ownership stipulated
49 in the original document, and duly recorded with the county's registry of deeds.

50 (h) The master deed is for use through the lifetime of a completely built condominium
51 and shall not have contents other than specified on Section 8 of this chapter. Any "Phased"
52 version is improper or temporary, any contents about unfinished construction shall be taken care
53 by the purchase and sale agreement, and any contents about mortgagee shall be taken care by the
54 by-laws. The master deed and by-laws or declaration of owners organization with by-laws are
55 unalienable from a condominium; the declarant, as the first sole owner, shall furnish these

56 documents that compliant with this chapter, including hard copies and editable electronic
57 sources, and shall keep them in the condominium management and transfer them with the
58 condominium management as significant items to the new owners.

59 (i) For a newly established condominium, each unit owner becomes beneficiary of the
60 condominium property immediately when the unit is conveyed to him; after seventy-five percent
61 of the units, or such greater percentage as is stipulated in the master deed, are conveyed, the unit
62 owners shall form an assembly and elect a chairperson and a board of management, and shall
63 verify all the condominium documents, ask the declarant to modify them if necessary, and adopt
64 them as their mutual agreements with the leadership of the chairperson and support of the board
65 of management; the declarant then becomes ex-sole-owner and shall turn over the control of
66 condominium to the unit owners represented by the board of management; all unit owners then
67 become also co-owners of the condominium common properties and, with all their exclusively-
68 own unit elements, they together as a group, the owners assembly, replaces the declarant to be
69 the sole owner of the condominium and its management and is the legislative body while the
70 board of management is the executive body of the condominium.