

HOUSE No. 4605

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 6, 2020.

The committee on the Judiciary to whom were referred the petition (accompanied by bill, Senate, No. 835) of Michael D. Brady, Julian Cyr, Michael J. Barrett and Michelle M. DuBois for legislation relative to construction defect claims by condominium owners and the petition (accompanied by bill, House, No. 3260) of Claire D. Cronin, Michael D. Brady and Michelle M. DuBois relative to construction defect claims by condominium owners, reports recommending that the accompanying bill (House, No. 4605) ought to pass.

For the committee,

CLAIRE D. CRONIN.

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**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to construction defect claims by 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. Section 2B of chapter 260 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the words “section thirty-nine A of chapter
3 seven”, in line 4, the following words:- or of a condominium as defined in chapter 183A,

4 SECTION 2. Said section 2B of chapter 260, as so appearing, is hereby further amended
5 by inserting at the end thereof the following new paragraph:-

6 Actions of tort possessed by an organization of unit owners of a condominium, for
7 damages arising out of any deficiency or neglect in the design, planning, construction, condition,
8 or general administration of an improvement to real property submitted to condominium status
9 pursuant to chapter 183A, shall be commenced only within three years next after the cause of
10 action accrues, unless the declarant shall remain in control of the organization of unit owners at
11 the time the cause of action would otherwise accrue, in which case the cause of action shall not
12 accrue prior to the declarant control termination date, as defined herein below; provided,
13 however, that in no event shall actions be commenced more than six years after the later of the

14 date of: (a) the declarant control termination date; (b) the opening of the improvement to use; or
15 (c) the earlier of the substantial completion of all phases of the condominium or expiration of the
16 phasing right. For purposes of this paragraph only, “declarant control termination date” shall
17 mean the later of the dates of: (a) when the managing board of the organization of unit owners is
18 comprised of a majority of unit owners other than the declarant or declarant’s appointees; or (b)
19 when the declarant or any entity controlled by the declarant shall own or control less than
20 twenty-five per cent of the beneficial interest of the condominium. The period of declarant
21 control shall mean the period prior to the declarant control termination date.

22 SECTION 3. This act shall apply to all master deeds, declaration of trusts, by-laws and
23 any amendments thereto, without regard to whether such master deed, declaration of trust, by-
24 laws, or amendments were recorded before, on or after the effective date of this act.