

SENATE No. 835

The Commonwealth of Massachusetts

PRESENTED BY:

Michael D. Brady

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 construction defect claims by condominium owners.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	
<i>Julian Cyr</i>	<i>Cape and Islands</i>	<i>1/17/2019</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>1/29/2019</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>	<i>2/1/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>4/22/2019</i>

SENATE No. 835

By Mr. Brady, a 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. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 4236 OF 2017-2018.]

The Commonwealth of Massachusetts

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 2016
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
5 amended 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: (1) the declarant control termination date; (2) the opening of the improvement to use; or
15 (3) substantial completion of all phases of the condominium or expiration of the phasing right
16 (whichever is earlier). For purposes of this paragraph only, “declarant control termination date”
17 shall mean the later of the dates of: (a) when the managing board of the organization of unit
18 owners is comprised of a majority of unit owners other than the declarant or declarant’s
19 appointees; or (b) when the declarant or any entity controlled by the declarant shall own or
20 control less than twenty-five per cent of the beneficial interest of the condominium. The period
21 of declarant 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.