

5088

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. LEIBELL -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

AN ACT to amend the general business law, in relation to enactment of a residential condominium owner's bill of rights

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 352-eeeeee to read as follows:
3 S 352-EEEEEE. RESIDENTIAL CONDOMINIUM OWNER'S BILL OF RIGHTS. THE
4 ORGANIZATIONAL AND OPERATING DOCUMENTS OF EVERY RESIDENTIAL CONDOMINIUM
5 ESTABLISHED OR OPERATING PURSUANT TO THE LAWS OF THE STATE SHALL GUARAN-
6 TEE THE FOLLOWING TO EACH UNIT OWNER:
7 1. THAT (A) ALL APPLICATIONS BY UNIT OWNERS IN CONNECTION WITH MATTERS
8 WHICH REQUIRE APPROVAL OF THE BOARD OF MANAGERS AND (B) ALL REQUESTS FOR
9 DETERMINATIONS BY THE BOARD OF MANAGERS INCLUDING BUT NOT LIMITED TO
10 REQUESTS FOR THE RESOLUTION OF DISPUTES BETWEEN OR AMONG UNIT OWNERS,
11 DISPUTES BETWEEN UNIT OWNERS AND THE CONDOMINIUM ASSOCIATION SUCH AS
12 DISPUTES CONCERNING RESPONSIBILITY FOR REPAIRS SHALL BE PROCESSED IN A
13 REASONABLY EXPEDITIOUS MANNER PURSUANT TO UNIFORM PROCEDURES AND TIMETA-
14 BLES ADOPTED IN WRITING. THE BOARD'S DECISION SHALL BE IN WRITING AND
15 SHALL SET FORTH THE REASONS THEREFOR, EXCEPT THAT NO REASON SHALL BE
16 REQUIRED WHEN APPROVAL IS GRANTED.
17 2. THAT THE FINAL RESULTS OF ELECTIONS FOR THE BOARD OF MANAGERS
18 INCLUDING A TALLY OF THE VOTES RECEIVED BY EACH CANDIDATE SHALL BE POST-
19 ED WITHIN ONE BUSINESS DAY FOLLOWING THE AVAILABILITY OF SUCH INFORMA-
20 TION IN A PROMINENT PLACE ACCESSIBLE TO ALL UNIT OWNERS IN EACH BUILDING
21 COMPRISING THE CONDOMINIUM.
22 3. THAT THE BOARD OF MANAGERS SHALL CALL A MEETING TO FILL ANY VACAN-
23 CIES WHICH OCCUR ON SUCH BOARD WITHIN SIXTY DAYS OF THE OCCURRENCE OF

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 SUCH VACANCY IF THE VACANCY OCCURS MORE THAN SIX MONTHS PRIOR TO THE
2 ANNUAL MEETING OF UNIT OWNERS.

3 4. THAT ANY MEMBER OF A BOARD OF MANAGERS WHO IS ELECTED WHILE A UNIT
4 OWNER IN THE CONDOMINIUM, WHO SELLS HIS OR HER APARTMENT, AND WHO,
5 SUBSEQUENT TO SUCH SALE SHALL NO LONGER BE A UNIT OWNER IN SUCH CONDO-
6 MINIUM, SHALL RESIGN FROM SUCH BOARD NO LATER THAN THE CLOSING DATE OF
7 SUCH SALE.

8 5. THAT COMPLETE AND ACCURATE FINANCIAL STATEMENTS AND ANY OTHER
9 STATEMENTS ORDINARILY PROVIDED TO UNIT OWNERS BE PROVIDED IN A TIMELY
10 FASHION PURSUANT TO ESTABLISHED TIMETABLES AT LEAST ONCE ANNUALLY. FOR
11 THE PURPOSES OF THIS SUBDIVISION "FINANCIAL STATEMENTS" SHALL INCLUDE
12 THE BALANCE SHEETS AND STATEMENTS OF INCOME AND EXPENSE FOR EACH OF THE
13 THREE MOST CURRENT FISCAL YEARS. ATTACHED TO SAID FINANCIAL STATEMENTS
14 SHALL BE A STATEMENT WHICH DISCLOSES (A) ANY CONTROLLING INTEREST OR
15 EMPLOYEE OR AGENCY RELATIONSHIP WHICH ANY BOARD MEMBER OR OFFICER OF THE
16 CONDOMINIUM ASSOCIATION OR THE SPOUSE OF SUCH PERSON HAS IN OR WITH ANY
17 SUPPLIER OF SERVICES OR MATERIALS TO SAID CONDOMINIUM AND (B) ANY
18 CONSIDERATION THE VALUE OF WHICH EXCEEDS ONE HUNDRED DOLLARS WHICH ANY
19 SUCH BOARD MEMBER OR OFFICER OR THE SPOUSE OF SUCH PERSON RECEIVES FROM
20 SUCH SUPPLIER.

21 6. THAT THE FOLLOWING DOCUMENTS BE MADE AVAILABLE FOR INSPECTION OR
22 COPYING BY UNIT OWNERS DURING REGULAR BUSINESS HOURS ON NO MORE THAN TEN
23 DAYS WRITTEN NOTICE TO THE BOARD OF MANAGERS:

24 (A) APPROVED MINUTES OF BOARD OF MANAGERS MEETINGS, PROVIDED THAT SUCH
25 BOARD SHALL HAVE THIRTY DAYS FROM THE DATES OF THE MEETINGS AT WHICH THE
26 MINUTES ARE APPROVED TO PREPARE SUCH MINUTES AND PROVIDED FURTHER THAT
27 THE BOARD MAY EXCLUDE MATTERS WHICH IT DEEMS CONFIDENTIAL OR WHICH WERE
28 DISCUSSED IN EXECUTIVE SESSION;

29 (B) DETAILED, ACCURATE RECORDS, IN CHRONOLOGICAL ORDER, OF THE
30 RECEIPTS AND EXPENDITURES ARISING FROM THE OPERATION OF THE PROPERTY;

31 (C) BANK ACCOUNT AND FINANCIAL INVESTMENT STATEMENTS;

32 (D) ALL PROPOSALS RECEIVED IN RESPONSE TO A REQUEST FOR BIDS TO
33 PROVIDE GOODS OR SERVICES TO THE CONDOMINIUM THE COST OF WHICH IS
34 REASONABLY EXPECTED TO EXCEED FIVE THOUSAND DOLLARS IN ANY ONE YEAR.
35 SUCH DOCUMENTS SHALL BE MADE AVAILABLE WITHIN TEN DAYS OF RECEIPT UNLESS
36 THE BOARD CHOOSES TO CONDUCT CLOSED COMPETITIVE BIDDING IN WHICH CASE
37 THE DOCUMENTS SHALL BE MADE AVAILABLE WITHIN TEN DAYS OF THE SELECTION
38 OF THE SUCCESSFUL BID;

39 (E) REPORTS OF ACCOUNTANTS, CONSULTANTS AND EXPERTS RETAINED OR HIRED
40 TO PERFORM SERVICES FOR OR ON BEHALF OF THE ASSOCIATION INCLUDING FINAN-
41 CIAL STATEMENTS AS DEFINED IN SUBDIVISION FIVE OF THIS SECTION PROVIDED,
42 HOWEVER, THAT SUCH REPORTS MAY BE WITHHELD WHEN A MAJORITY OF THE
43 MEMBERS OF THE BOARD HAS VOTED TO WITHHOLD SUCH INFORMATION. WHEN THE
44 MATTER CONCERNS ALLEGED CONFLICT OF INTEREST OR MALFEASANCE INVOLVING
45 BOARD MEMBERS THE REPORT MAY BE WITHHELD ONLY UPON A VOTE OF THE MAJORI-
46 TY OF DISINTERESTED BOARD MEMBERS. IF ALL BOARD MEMBERS ARE INTERESTED
47 PARTIES THE REPORT MAY NOT BE WITHHELD;

48 (F) REPORTS BY MUNICIPAL AND/OR COUNTY INSPECTORS CONCERNING COMPLI-
49 ANCE WITH HEALTH, BUILDING AND HOUSING CODES AND REGULATIONS; AND

50 (G) THE RECORDS OF DECISIONS BY THE BOARD OF MANAGERS TO EXCLUDE OR
51 WITHDRAW MATERIALS PURSUANT TO PARAGRAPH (A) OR (E) OF THIS SUBDIVISION.
52 SUCH RECORDS SHALL BE PREPARED IN EVERY INSTANCE THAT MATERIALS ARE
53 WITHHELD OR EXCLUDED. THE RECORD SHALL INCLUDE THE GENERAL NATURE OF THE
54 MATERIALS AND THE REASON FOR WITHHOLDING OR EXCLUDING SAME.

55 7. THAT IN ADDITION TO ANY OTHER NOTICE REQUIRED BY THE CONDOMINIUM
56 ASSOCIATION'S ORGANIZATIONAL OR OPERATING DOCUMENTS, NOTICE OF ALL BOARD

1 AND UNIT OWNER MEETINGS SHALL BE POSTED IN A PROMINENT PLACE ACCESSIBLE
2 TO ALL UNIT OWNERS IN EACH BUILDING COMPRISING THE CONDOMINIUM.

3 8. (A) THAT THE BOARD OF MANAGERS SHALL NOT IMPOSE SPECIAL ASSESS-
4 MENTS, OR ENTER INTO CONTRACTS FOR EXTRAORDINARY EXPENSES THE COST OF
5 WHICH EXCEEDS LIMITS ESTABLISHED PURSUANT TO PARAGRAPH (B) OF THIS
6 SUBDIVISION BEYOND CUSTOMARY OPERATING OR MAINTENANCE COSTS, WITHOUT
7 APPROVAL BY A VOTE OF THE UNIT OWNERS. A VOTE OF THE UNIT OWNERS MAY BE
8 WAIVED BY THE BOARD IN THE CASE OF (I) AN EMERGENCY EVIDENCED BY AN
9 APPROVED RESOLUTION OF THE BOARD, OR (II) A REQUIRED REFINANCING OF AN
10 EXISTING MORTGAGE.

11 (B) UNLESS THE BYLAWS REQUIRE A UNIT OWNER VOTE TO ESTABLISH THE
12 LIMITS REFERRED TO IN PARAGRAPH (A) OF THIS SUBDIVISION, THE LIMITS
13 SHALL BE ESTABLISHED BY THE BOARD OF MANAGERS AS FOLLOWS. NO LESS THAN
14 ONCE IN EVERY FIVE YEARS THE BOARD SHALL PROPOSE LIMITS WHICH SHALL BE
15 INCLUDED IN THE NOTICE OF THE ANNUAL OR ANY OTHER MEETING OF THE UNIT
16 OWNERS. AN OPPORTUNITY FOR UNIT OWNERS TO COMMENT ON SUCH PROPOSAL AND
17 TO OFFER LOWER LIMITS SHALL BE INCLUDED IN THE AGENDA FOR SUCH MEETING.
18 AT THE CONCLUSION OF THE COMMENT PERIOD THE BOARD SHALL, BY AN OPEN
19 VOTE, ADOPT LIMITS NOT TO EXCEED THOSE PROPOSED BY THE BOARD WHICH SHALL
20 BE EFFECTIVE UNTIL CHANGED PURSUANT TO THE PROVISIONS OF THIS PARAGRAPH.

21 9. THE ATTORNEY GENERAL IS AUTHORIZED TO ENFORCE THE PROVISIONS OF
22 THIS SECTION AND MAY, UPON HIS OR HER OWN INITIATIVE, OR IN RESPONSE TO
23 A COMPLAINT BY ONE OR MORE UNIT OWNERS, INVESTIGATE ALLEGATIONS OF ANY
24 FAILURE TO COMPLY WITH THE PROVISIONS HEREOF.

25 S 2. Within 6 months of the effective date of this act the attorney
26 general shall promulgate a handbook summarizing the rights of unit
27 owners vis-a-vis condominium associations and the procedures and proc-
28 esses available to unit owners to enforce such rights.

29 S 3. This act shall take effect immediately; provided, however, that
30 as to residential condominium associations existing and operating as
31 such on the effective date of this act the boards of managers of such
32 associations shall within 1 year of the effective date of this act take
33 all steps necessary to amend the appropriate organizational and operat-
34 ing documents of such associations to implement the provisions of this
35 act.