

4725

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 and the real property law, in relation to enactment of a residential cooperative and 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 COOPERATIVE AND CONDOMINIUM OWNER'S BILL OF
4 RIGHTS. THE ORGANIZATIONAL AND OPERATING DOCUMENTS OF EVERY RESIDENTIAL
5 COOPERATIVE HOUSING CORPORATION AND EVERY RESIDENTIAL CONDOMINIUM ASSO-
6 CIATION ESTABLISHED OR OPERATING PURSUANT TO THE LAWS OF THE STATE SHALL
7 GUARANTEE THE FOLLOWING TO EACH SHAREHOLDER OR UNIT OWNER:
8 1. THAT (A) ALL APPLICATIONS IN CONNECTION WITH MATTERS WHICH REQUIRE
9 APPROVAL OF THE BOARD OF DIRECTORS OR BOARD OF MANAGERS AND (B) ALL
10 REQUESTS FOR DETERMINATIONS BY THE BOARD OF DIRECTORS OR BOARD OF MANAG-
11 ERS INCLUDING BUT NOT LIMITED TO REQUESTS FOR THE RESOLUTION OF DISPUTES
12 BETWEEN OR AMONG SHAREHOLDERS OR UNIT OWNERS, DISPUTES BETWEEN SHARE-
13 HOLDERS AND THE COOPERATIVE CORPORATION OR BETWEEN UNIT OWNERS AND THE
14 CONDOMINIUM ASSOCIATION SUCH AS DISPUTES CONCERNING RESPONSIBILITY FOR
15 REPAIRS SHALL BE PROCESSED IN A REASONABLY EXPEDITIOUS MANNER ON A NON-
16 DISCRIMINATORY BASIS PURSUANT TO UNIFORM PROCEDURES AND TIMETABLES
17 ADOPTED IN WRITING AND ANY SUCH APPROVAL SHALL NOT BE UNREASONABLY WITH-
18 HELD. THE BOARD'S DECISION SHALL BE IN WRITING AND SHALL SET FORTH THE
19 REASONS THEREFOR, EXCEPT THAT NO REASON SHALL BE REQUIRED WHEN APPROVAL
20 IS GRANTED. A BOARD'S REFUSAL TO ALLOW A SHAREHOLDER OR UNIT OWNER TO
21 SUBLET AN APARTMENT PURSUANT TO A UNIFORM POLICY WHICH IS REASONABLY
22 DESIGNED TO PROHIBIT OR LIMIT SUBLETTING SHALL NOT BE DEEMED TO BE AN
23 UNREASONABLE WITHHOLDING OF CONSENT PURSUANT TO THIS SUBDIVISION. THE

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

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1 FOREGOING PROVISIONS OF THIS SUBDIVISION SHALL NOT PROHIBIT THE ENFORCE-
2 MENT OF UNIFORM REASONABLE POLICIES RELATED TO THE HEALTH, SAFETY AND
3 WELFARE OF THE RESIDENTS AND THE SAFE AND PRUDENT OPERATION OF THE PREM-
4 ISES.

5 2. THAT ELECTIONS FOR MEMBERS OF THE BOARD OF DIRECTORS OR THE BOARD
6 OF MANAGERS BE HELD BY SECRET BALLOT, UNLESS WAIVED BY A UNANIMOUS VOTE
7 OF THE SHAREHOLDERS PRESENT IN PERSON OR BY PROXY AT THE ELECTION MEET-
8 ING, OR IN THE CASE OF AN UNCONTESTED ELECTION. A TALLY OF THE VOTES
9 RECEIVED BY EACH CANDIDATE IN AN ELECTION FOR THE BOARD OF MANAGERS OR
10 BOARD OF DIRECTORS SHALL BE POSTED WITHIN ONE DAY FOLLOWING THE AVAIL-
11 ABILITY OF SUCH INFORMATION IN A PROMINENT PLACE ACCESSIBLE TO ALL
12 TENANTS IN EACH BUILDING COMPRISING THE COOPERATIVE OR CONDOMINIUM.

13 3. THAT THE BOARD OF DIRECTORS OR BOARD OF MANAGERS ACT IN A TIMELY
14 FASHION TO FILL ANY VACANCIES WHICH OCCUR ON SUCH BOARDS.

15 4. THAT ANY MEMBER OF A BOARD OF DIRECTORS OR BOARD OF MANAGERS WHO IS
16 ELECTED WHILE A SHAREHOLDER OR UNIT OWNER IN THE COOPERATIVE CORPORATION
17 OR CONDOMINIUM ASSOCIATION, WHO SELLS HIS OR HER APARTMENT OR THE SHARES
18 ALLOCATED THERETO, AND WHO, SUBSEQUENT TO SUCH SALE SHALL NO LONGER BE A
19 SHAREHOLDER OR UNIT OWNER IN SUCH CORPORATION OR ASSOCIATION, SHALL
20 RESIGN FROM SUCH BOARD NO LATER THAN THE CLOSING DATE OF SUCH SALE.

21 5. THAT COMPLETE AND ACCURATE FINANCIAL STATEMENTS AND ANY OTHER
22 STATEMENTS ORDINARILY PROVIDED TO SHAREHOLDERS OR UNIT OWNERS BE
23 PROVIDED IN A TIMELY FASHION PURSUANT TO ESTABLISHED TIMETABLES AT LEAST
24 ONCE ANNUALLY. FOR THE PURPOSES OF THIS SUBDIVISION "FINANCIAL STATE-
25 MENTS" SHALL INCLUDE THE BALANCE SHEETS AND STATEMENTS OF INCOME AND
26 EXPENSE FOR EACH OF THE THREE MOST CURRENT FISCAL YEARS. ATTACHED TO
27 SAID FINANCIAL STATEMENTS SHALL BE A STATEMENT WHICH DISCLOSES (A) ANY
28 KNOWN INTEREST, DIRECT OR INDIRECT, BENEFICIAL OR OTHERWISE, WHICH ANY
29 DIRECTOR, ASSOCIATION MEMBER, OFFICER, EMPLOYEE, AGENT, SHAREHOLDER OR
30 CONDOMINIUM OWNER OR RELATIVE OF ANY SUCH PERSON HAS IN ANY SUPPLIER OF
31 SERVICES OR MATERIAL TO SAID COOPERATIVE OR CONDOMINIUM AND (B) ANY
32 CONSIDERATION, FINANCIAL OR OTHERWISE, WHICH SAID DIRECTOR, ASSOCIATION
33 MEMBER, OFFICER, EMPLOYEE, AGENT, SHAREHOLDER OR CONDOMINIUM OWNER OR
34 RELATIVE OF ANY SUCH PERSON HAS RECEIVED OR IS RECEIVING FROM SUCH
35 SUPPLIER.

36 6. THAT THE FOLLOWING DOCUMENTS BE MADE AVAILABLE FOR INSPECTION OR
37 COPYING BY SHAREHOLDERS OR UNIT OWNERS AT REASONABLE TIMES ON NO MORE
38 THAN TEN DAYS WRITTEN NOTICE TO THE BOARD OF DIRECTORS OR BOARD OF
39 MANAGERS:

40 (A) APPROVED MINUTES OF BOARD OF DIRECTORS OR BOARD OF MANAGERS MEET-
41 INGS, PROVIDED THAT SUCH BOARDS SHALL HAVE FIFTEEN DAYS FROM THE DATES
42 OF THE MEETINGS AT WHICH THE MINUTES ARE APPROVED TO PREPARE SUCH
43 MINUTES;

44 (B) AGREEMENTS AND BILLS FOR GOODS AND SERVICES. ALL SUCH AGREEMENTS
45 AND BILLS SHALL FULLY DESCRIBE THE GOODS PROVIDED OR SERVICES PERFORMED
46 AND APPORTION THE TOTAL COST FOR SPECIFIC GOODS OR SERVICES;

47 (C) BANKING ACCOUNT AND FINANCIAL INVESTMENT STATEMENTS;

48 (D) VENDOR LISTS AND COMPETITIVE BIDDING SUBMISSIONS;

49 (E) REPORTS OF ACCOUNTANTS, CONSULTANTS AND EXPERTS RETAINED OR HIRED
50 TO PERFORM SERVICES FOR OR ON BEHALF OF THE CORPORATION OR ASSOCIATION
51 INCLUDING FINANCIAL STATEMENTS AS DEFINED IN SUBDIVISION FIVE OF THIS
52 SECTION PROVIDED, HOWEVER, THAT SUCH REPORTS MAY BE WITHHELD WHERE THE
53 REPORT CONCERNS OR MAY CONCERN LITIGATION, WHERE THE REPORT WAS PREPARED
54 IN CONNECTION WITH THE LITIGATION AND WHERE A MAJORITY OF THE MEMBERS OF
55 THE BOARD HAVE VOTED TO WITHHOLD SUCH INFORMATION. WHERE THE MATTER
56 CONCERNS ALLEGED CONFLICT OF INTEREST OR MALFEASANCE INVOLVING BOARD

1 MEMBERS THE REPORT MAY BE WITHHELD ONLY UPON A VOTE OF THE MAJORITY OF
2 DISINTERESTED BOARD MEMBERS. IF ALL BOARD MEMBERS ARE INTERESTED PARTIES
3 THE REPORT MAY NOT BE WITHHELD; AND

4 (F) REPORTS BY MUNICIPAL AND/OR COUNTY INSPECTORS CONCERNING COMPLI-
5 ANCE WITH HEALTH, BUILDING AND HOUSING CODES AND REGULATIONS.

6 7. THAT IN ADDITION TO ANY OTHER NOTICE REQUIRED BY THE COOPERATIVE
7 CORPORATION'S OR CONDOMINIUM ASSOCIATION'S ORGANIZATIONAL OR OPERATING
8 DOCUMENTS, NOTICE OF ALL BOARD AND SHAREHOLDER OR UNIT OWNER MEETINGS BE
9 POSTED IN A PROMINENT PLACE ACCESSIBLE TO ALL SHAREHOLDERS AND UNIT
10 OWNERS IN EACH BUILDING COMPRISING THE COOPERATIVE OR CONDOMINIUM.

11 8. THAT THE BOARD OF DIRECTORS OR BOARD OF MANAGERS SHALL NOT IMPOSE
12 SPECIAL ASSESSMENTS, OR ENTER INTO CONTRACTS FOR EXTRAORDINARY EXPENSES
13 BEYOND CUSTOMARY OPERATING OR MAINTENANCE COSTS, WITHOUT APPROVAL BY A
14 VOTE OF THE SHAREHOLDERS OR UNIT OWNERS. A VOTE OF THE SHAREHOLDERS OR
15 UNIT OWNERS MAY BE WAIVED BY THE BOARD IN THE CASE OF (A) AN EMERGENCY
16 EVIDENCED BY AN APPROVED RESOLUTION OF THE BOARD, (B) A REQUIRED REFI-
17 NANCING OF AN EXISTING MORTGAGE OR (C) WHERE SHAREHOLDERS OR UNIT OWNERS
18 HAVE BEEN NOTIFIED OF THE PROPOSED ACTION IN WRITING WITHIN A REASONABLE
19 PERIOD OF TIME PRIOR TO THE PROPOSED DATE OF IMPLEMENTATION OF THE
20 ACTION AND WHERE SUCH NOTICE PROVIDES THAT THE BOARD MAY WAIVE A VOTE
21 UNLESS AT LEAST A CERTAIN PERCENT OF THE SHAREHOLDERS OR UNIT OWNERS
22 DEMAND IN WRITING THAT THE ACTION BE PUT TO A VOTE. SUCH PERCENTAGE MAY
23 NOT EXCEED FIFTY PERCENT.

24 S 2. Subdivision 1 of section 339-v of the real property law is
25 amended by adding a new paragraph (k) to read as follows:

26 (K) THAT A MEMBER OF THE BOARD OF MANAGERS WHO IS ELECTED TO FILL A
27 VACANCY, UNLESS ELECTED BY A GENERAL VOTE OF THE UNIT OWNERS, SHALL HOLD
28 OFFICE UNTIL THE NEXT MEETING OF UNIT OWNERS AT WHICH THE ELECTION OF A
29 MEMBER OR MEMBERS OF THE BOARD OF MANAGERS IS IN THE REGULAR ORDER OF
30 BUSINESS, AND UNTIL HIS OR HER SUCCESSOR HAS BEEN ELECTED AND QUALIFIED.

31 S 3. Within 6 months of the effective date of this act the attorney
32 general shall promulgate a handbook summarizing the rights of sharehold-
33 ers and unit owners vis-a-vis cooperative corporations and condominium
34 associations and the procedures and processes available to shareholders
35 and unit owners to enforce such rights.

36 S 4. This act shall take effect immediately; provided, however, that
37 as to residential cooperative housing corporations and residential
38 condominium associations existing and operating as such on the effective
39 date of this act the boards of directors of such corporations and the
40 boards of managers of such associations shall within 1 year of the
41 effective date of this act take all steps necessary to amend the appro-
42 priate organizational and operating documents of such corporations or
43 associations to implement the provisions of this act.