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I N A S S E M B L Y

March 4, 2014

Introduced by M. of A. WRIGHT, MOSLEY -- read once and referred to the
Committee on Housing

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

26 4. THAT ANY MEMBER OF A BOARD OF MANAGERS WHO IS ELECTED WHILE A UNIT
27 OWNER IN THE CONDOMINIUM, WHO SELLS HIS OR HER APARTMENT, AND WHO,
28 SUBSEQUENT TO SUCH SALE SHALL NO LONGER BE A UNIT OWNER IN SUCH CONDO-

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

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MINIUM, SHALL RESIGN FROM SUCH BOARD NO LATER THAN THE CLOSING DATE OF SUCH SALE.

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

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

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

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

(C) BANK ACCOUNT AND FINANCIAL INVESTMENT STATEMENTS;

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

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

(F) REPORTS BY MUNICIPAL AND/OR COUNTY INSPECTORS CONCERNING COMPLIANCE WITH HEALTH, BUILDING AND HOUSING CODES AND REGULATIONS; AND

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

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

8. (A) THAT THE BOARD OF MANAGERS SHALL NOT IMPOSE SPECIAL ASSESSMENTS, OR ENTER INTO CONTRACTS FOR EXTRAORDINARY EXPENSES THE COST OF WHICH EXCEEDS LIMITS ESTABLISHED PURSUANT TO PARAGRAPH (B) OF THIS

1 SUBDIVISION BEYOND CUSTOMARY OPERATING OR MAINTENANCE COSTS, WITHOUT
2 APPROVAL BY A VOTE OF THE UNIT OWNERS. A VOTE OF THE UNIT OWNERS MAY BE
3 WAIVED BY THE BOARD IN THE CASE OF (I) AN EMERGENCY EVIDENCED BY AN
4 APPROVED RESOLUTION OF THE BOARD, OR (II) A REQUIRED REFINANCING OF AN
5 EXISTING MORTGAGE.

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

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

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

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