

# STATE OF NEW YORK

6338--A

2019-2020 Regular Sessions

## IN ASSEMBLY

March 6, 2019

Introduced by M. of A. FAHY, CARROLL, McDONALD, D'URSO, COLTON, SIMON, BLAKE -- read once and referred to the Committee on Housing -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules

AN ACT to amend the real property law, in relation to electric vehicle charging station installation in condominiums

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The real property law is amended by adding a new section  
2 339-11 to read as follows:

3 § 339-11. Electric vehicle charging station installation. 1. As used  
4 in this section:

5 (a) "Reasonable restrictions" means restrictions that do not signif-  
6 icantly increase the cost of the station or significantly decrease its  
7 efficiency or specified performance.

8 (b) "Electric vehicle charging station" means a station that delivers  
9 electricity from a source outside an electric vehicle into one or more  
10 electric vehicles. An electric vehicle charging station may include  
11 several charge points simultaneously connecting several electric vehi-  
12 cles to the station and any related equipment needed to facilitate  
13 charging plug-in electric vehicles.

14 2. (a) Any covenant, restriction, or condition contained in any deed,  
15 contract, security instrument, or other instrument affecting the trans-  
16 fer or sale of any interest in the property, and any by-laws, that  
17 either effectively prohibits or unreasonably restricts the installation  
18 or use of an electric vehicle charging station within an owner's unit or  
19 in a designated parking space, including, but not limited to, a deeded  
20 parking space, a parking space in an owner's exclusive use common  
21 element, or a parking space that is specifically designated for use by a

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

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1 particular owner, or is in conflict with the provisions of this section  
2 shall be void and unenforceable.

3 (b) This section shall not apply to by-laws that impose reasonable  
4 restrictions on electric vehicle charging stations. However, it is the  
5 policy of the state to promote, encourage, and remove obstacles to the  
6 use of electric vehicle charging stations.

7 (c) An electric vehicle charging station shall meet all applicable  
8 health and safety standards and requirements imposed by law, rule or  
9 regulation.

10 (d) If approval is required for the installation or use of an electric  
11 vehicle charging station the application for approval shall be processed  
12 and approved by the association in a manner prescribed by the associ-  
13 ation and shall not be willfully avoided or delayed. The approval or  
14 denial of an application shall be in writing. If an application is not  
15 denied in writing within sixty days from the date of receipt of the  
16 application, the application shall be deemed approved, unless that delay  
17 is the result of a reasonable request for additional information.

18 (e) If the electric vehicle charging station is to be placed in the  
19 common elements or in an exclusive use common element, as designated in  
20 the common interest declaration, the following provisions shall apply:

21 (i) The owner first shall obtain approval from the association to  
22 install the electric vehicle charging station and the association shall  
23 approve the installation if the owner agrees in writing to do all of the  
24 following:

25 (A) comply with the association's architectural standards for the  
26 installation of the charging station;

27 (B) engage a licensed contractor to install the charging station;

28 (C) within fourteen days of approval, provide a certificate of insur-  
29 ance that names the association as an additional insured under the  
30 owner's insurance policy pursuant to subparagraph (iii) of this para-  
31 graph; and

32 (D) pay for both the costs associated with the installation of and the  
33 electricity usage associated with the charging station.

34 (ii) The owner and each successive owner of the charging station shall  
35 be responsible for all of the following:

36 (A) costs for damage to the charging station, common elements, exclu-  
37 sive use common elements, or separate units resulting from the installa-  
38 tion, maintenance, repair, removal, or replacement of the charging  
39 station;

40 (B) costs for the maintenance, repair, and replacement of the charging  
41 station until it has been removed and for the restoration of the common  
42 elements after removal;

43 (C) the cost of electricity associated with the charging station; and

44 (D) disclosing to prospective buyers the existence of any charging  
45 station of the owner and the related responsibilities of the owner under  
46 this section.

47 (iii) The owner of the charging station, whether located within a  
48 separate unit or within the common elements or exclusive use common  
49 elements, shall, at all times, maintain a liability coverage policy. The  
50 owner that submitted the application to install the charging station  
51 shall provide the association with the corresponding certificate of  
52 insurance within fourteen days of approval of the application. That  
53 owner and each successor owner shall provide the association with the  
54 certificate of insurance annually thereafter.

1 (iv) A homeowner shall not be required to maintain a homeowners  
2 liability coverage policy for an existing national electrical manufac-  
3 turers association standard alternating current power plug.

4 (f) Except as provided in paragraph (g) of this subdivision, installa-  
5 tion of an electric vehicle charging station for the exclusive use of an  
6 owner in a common element, that is not an exclusive use common element,  
7 shall be authorized by the association only if installation in the  
8 owner's designated parking space is impossible or unreasonably expen-  
9 sive. In such cases, the association shall enter into a license agree-  
10 ment with the owner for the use of the space in a common area, and the  
11 owner shall comply with all of the requirements in paragraph (e) of this  
12 subdivision.

13 (g) The association or owners may install an electric vehicle charging  
14 station in the common elements for the use of all members of the associ-  
15 ation and, in that case, the association shall develop appropriate terms  
16 of use for the charging station.

17 (h) An association may create a new parking space where one did not  
18 previously exist to facilitate the installation of an electric vehicle  
19 charging station.

20 (i) An association that willfully violates this section shall be  
21 liable to the applicant or other party for actual damages, and shall pay  
22 a civil penalty to the applicant or other party in an amount not to  
23 exceed one thousand dollars.

24 (j) In any action by a unit owner requesting to have an electric vehi-  
25 cle charging station installed and seeking to enforce compliance with  
26 this section, the unit owner shall be awarded reasonable attorney's fees  
27 if he or she prevails.

28 § 2. This act shall take effect immediately.