STATE OF NEW YORK

5157

2019-2020 Regular Sessions

IN SENATE

April 11, 2019

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

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:

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

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

(a) "Reasonable restrictions" means restrictions that do not significantly increase the cost of the station or significantly decrease its efficiency or specified performance.

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

2. (a) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in the property, and any by-laws, that either effectively prohibits or unreasonably restricts the installation or use of an electric vehicle charging station within an owner's unit or in a designated parking space, including, but not limited to, a deeded parking space, a parking space in an owner's exclusive use common element, or a parking space that is specifically designated for use by a particular owner, or is in conflict with the provisions of this section shall be void and unenforceable.

(b) This section shall not apply to by-laws that impose reasonable restrictions on electric vehicle charging stations. However, it is the

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

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policy of the state to promote, encourage, and remove obstacles to the use of electric vehicle charging stations.

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

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

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

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

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

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

(C) within fourteen days of approval, provide a certificate of insurance that names the association as an additional insured under the owner's insurance policy pursuant to subparagraph (iii) of this paragraph; and

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

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

(A) costs for damage to the charging station, common elements, exclusive use common elements, or separate units resulting from the installation, maintenance, repair, removal, or replacement of the charging station;

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

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

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

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

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

(f) Except as provided in subparagraph (g) of this subdivision, installation of an electric vehicle charging station for the exclusive use of an owner in a common element, that is not an exclusive use common

element, shall be authorized by the association only if installation in the owner's designated parking space is impossible or unreasonably expensive. In such cases, the association shall enter into a license agreement with the owner for the use of the space in a common area, and the owner shall comply with all of the requirements in paragraph (e) of this subdivision.

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

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

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

(j) In any action by a unit owner requesting to have an electric vehicle charging station installed and seeking to enforce compliance with this section, the prevailing plaintiff shall be awarded reasonable attorney's fees.

§ 2. This act shall take effect immediately.