STATE OF NEW YORK

2387

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

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

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

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

Section 1. The general business law is amended by adding a new section 352-eeeee to read as follows:

§ 352-eeeee. Residential condominium owner's bill of rights. The organizational and operating documents of every residential condominium established or operating pursuant to the laws of the state shall guarantee the following to each unit owner:

1. That (a) all applications by unit owners in connection with matters which require approval of the board of managers and (b) all requests for determinations by the board of managers including but not limited to requests for the resolution of disputes between or among unit owners, disputes between unit owners and the condominium association such as disputes concerning responsibility for repairs shall be processed in a reasonably expeditious manner pursuant to uniform procedures and timetables adopted in writing. The board's decision shall be in writing and shall set forth the reasons therefor, except that no reason shall be required when approval is granted.

2. That the final results of elections for the board of managers including a tally of the votes received by each candidate shall be posted within one business day following the availability of such information in a prominent place accessible to all unit owners in each building comprising the condominium.

3. That the board of managers shall call a meeting to fill any vacancies 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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such vacancy if the vacancy occurs more than six months prior to the annual meeting of unit owners.

4. That any member of a board of managers who is elected while a unit owner in the condominium, who sells his or her apartment, and who, subsequent to such sale shall no longer be a unit owner in such condominium, 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 any reasonable electronic or physical means including camera or photocopier, 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. The attorney general is authorized to enforce the provisions of this section and may, upon his or her own initiative, or in response to a complaint by one or more unit owners, investigate allegations of any failure to comply with the provisions hereof.

§ 2. The business corporation law is amended by adding a new section 708-a to read as follows:

§ 708-a. Residential cooperative owner's bill of rights.

(a) For the purposes of this section, the term "cooperative" shall mean a corporation owning or leasing residential premises and operating the same on a cooperative basis.

(b) (1) The organizational and operating documents of every residential cooperative established or operating pursuant to the laws of the state shall guarantee the following to each shareholder:

(2) That (i) all applications by shareholders in connection with matters which require approval of the board of directors and (ii) all requests for determinations by the board of directors including but not limited to requests for the resolution of disputes between or among shareholders, disputes between shareholders and the board such as disputes concerning responsibility for repairs shall be processed in a reasonably expeditious manner pursuant to uniform procedures and timetables adopted in writing. The board's decision shall be in writing and shall set forth the reasons therefor, except that no reason shall be required when approval is granted.

(3) That the final results of elections for the board of directors including a tally of the votes received by each candidate shall be posted within one business day following the availability of such information in a prominent place accessible to all shareholders in each building comprising the cooperative.

(4) That the board of directors shall call a meeting to fill any vacancies which occur on such board within sixty days of the occurrence of such vacancy if the vacancy occurs more than six months prior to the annual meeting of shareholders.

(5) That any member of a board of directors who is elected while a shareholder in the cooperative, who sells his or her apartment, and who, subsequent to such sale shall no longer be a shareholder in such cooperative, shall resign from such board no later than the closing date of such sale.

(6) That complete and accurate financial statements and any other statements ordinarily provided to shareholders be provided in a timely fashion pursuant to established timetables at least once annually. For the purposes of this paragraph "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 (i) any controlling interest or employee or agency relationship which any board member or officer of the cooperative board or the spouse of such person has in or with any supplier of services or materials to said cooperative and (ii) 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.

(7) That the following documents be made available for inspection or copying, by any reasonable electronic or physical means including camera

or photocopier, by shareholders during regular business hours on no more than ten days written notice to the board of directors:

(i) approved minutes of board of directors 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;

(ii) detailed, accurate records, in chronological order, of the receipts and expenditures arising from the operation of the property;

(iii) bank account and financial investment statements;

(iv) all proposals received in response to a request for bids to provide goods or services to the cooperative 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;

(v) reports of accountants, consultants and experts retained or hired to perform services for or on behalf of the cooperative including financial statements as defined in paragraph five of this subdivision 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;

(vi) reports by municipal and/or county inspectors concerning compliance with health, building and housing codes and regulations; and

(vii) the records of decisions by the board of directors to exclude or withdraw materials pursuant to subparagraph (i) or (v) of this paragraph. 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.

(8) That in addition to any other notice required by the cooperative's organizational or operating documents, notice of all board and shareholder meetings shall be posted in a prominent place accessible to all shareholders in each building comprising the cooperative.

(9) The attorney general is authorized to enforce the provisions of this section and may, upon his or her own initiative, or in response to a complaint by one or more shareholders, investigate allegations of any failure to comply with the provisions hereof.

§ 3. Within six months of the effective date of this act the attorney general shall promulgate a handbook summarizing the rights of unit owners vis-a-vis condominium associations and the procedures and processes available to unit owners to enforce such rights.

§ 4. This act shall take effect immediately; provided, however, that as to residential condominium associations existing and operating as such on the effective date of this act the boards of managers of such associations shall within one year of the effective date of this act take all steps necessary to amend the appropriate organizational and operating documents of such associations to implement the provisions of this act.