

SENATE No. 602

The Commonwealth of Massachusetts

PRESENTED BY:

Brian A. Joyce

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to clarify chapter 183A of the General Laws.

PETITION OF:

NAME:

Brian A. Joyce

DISTRICT/ADDRESS:

Norfolk, Bristol and Plymouth

SENATE No. 602

By Mr. Joyce, a petition (accompanied by bill, Senate, No. 602) of Brian A. Joyce for legislation to clarify chapter 183A of the General Laws. Housing.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to clarify chapter 183A of the General Laws.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 5 of chapter 183A of the General Laws, as appearing in the 2010
2 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof
3 the following subsection:-

4 (c) The common areas and facilities shall remain undivided and no unit owner or any
5 other person shall bring any action for partition or division of any part thereof, except as
6 provided in sections seventeen, eighteen and nineteen of this chapter. The grant, modification,
7 amendment or designation of any easements or any limited common area and facility pursuant to
8 subsections (b)(2)(i) and (b)(2)(ii) respectively of this section shall not require an amendment to
9 the master deed or an amendment to the site plan or floor plan recorded with the master deed.
10 The organization of unit owners, acting by and through its governing body, may assess the
11 reasonable costs of the preparation, execution and recordation of such grant of an easement or
12 designation or allocation of limited common areas and facilities to the unit owner to whom the
13 grant or designation is being granted. Further, nothing contained in said Section 5 shall be
14 construed to require the consent of one hundred per cent of the beneficial interest and the
15 mortgagees to the granting of an easement by the organization of unit owners, or the designation
16 or allocation of limited common areas and facilities. Except as expressly provided in this
17 section, the provisions of this section may not be varied by agreement and rights conferred
18 thereby may not be waived. In event of a conflict between this section and the master deed,
19 declaration of trust or bylaws of any condominium submitted to the provisions of this chapter,
20 the language of this section shall control. Any covenant or provision to the contrary shall be null
21 and void.

22 SECTION 2. Chapter 183A of the General Laws is hereby amended by adding the
23 following section:-

24 Section 23. Any consent required to be given by mortgagees pursuant to the provisions
25 of the master deed, declaration of trust or bylaws of any condominium submitted to the
26 provisions of this chapter, or pursuant to the provisions of this chapter, shall be deemed to be
27 given if, upon written notice by certified mail, return receipt requested and first class mail,
28 provided by the governing body of the organization of unit owners of a proposed amendment to
29 the master deed, declaration of trust, or bylaws, to mortgagees holding first mortgages on units
30 within a condominium, such mortgagee fails to respond or object within sixty (60) days of the
31 date of mailing such notice or within such period of time as may be stated in the master deed,
32 declaration of trust or bylaws, whichever period of time is shorter.

33 SECTION 3. This act shall apply to all master deeds, declaration of trusts, bylaws and
34 any amendments thereto, without regard to whether such master deed, declaration of trust,
35 bylaws, or amendment was recorded before, on or after the effective date of this act.