

By Mr. Draisen of Boston, petition of Marc D. Draisen and other members of the General Court for legislation to establish capital reserve funds for condominiums. Housing and Urban Development.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT TO AMEND CHAPTER 183A TO ESTABLISH CAPITAL RESERVE FUNDS.

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 1 of Chapter 183A of the General Laws
2 is amended by inserting the following immediately prior to
3 "Master Deed": —

4 " 'Declarant', the person or entity who submits land or the
5 lessee's interest in any lease in land to this Chapter pursuant to
6 Section 2 hereof."

1 SECTION 2. Section 10(d) of said Chapter 183A is amended
2 by the addition of the following three paragraphs: —

3 "All condominiums with more than 10 units established after
4 July 1, 1992 shall have a capital reserve fund funded by the
5 Declarant in an amount at least equal to two months estimated
6 common charges for each unit. Any amounts paid into this fund
7 shall not be considered advance payments of regular assessments.
8 Each unit's share of the capital reserve fund shall be collected at
9 the time the sale of a unit is closed or when control of the
10 condominium is transferred from Declarant to the organization
11 of unit owners, whichever is earlier. When control of the
12 condominium is transferred, the capital reserve fund shall be
13 transferred to the organization of unit owners for a deposit to a
14 segregated fund. While the Declarant is in control of the
15 organization of unit owners it cannot use any of the capital reserve
16 funds to defray its expenses, reserve contributions or construction
17 costs or to make up any budget deficits. When unsold units are

18 sold the Declarant may use funds collected at closing to reimburse
19 itself for funds it paid the organization of unit owners for each
20 unsold unit's share of the capital reserve fund.

21 By January 1, 1994 all condominiums with more than 10 units
22 shall establish a capital reserve fund, to be maintained in the future
23 out of regular assessments for common expenses. For
24 condominiums with more than 10 units, estimated common
25 expenses for each fiscal year beginning after January 1, 1994 shall
26 include a good faith estimate of an amount sufficient to have the
27 capital reserve fund equal on average to two months common
28 charges from all units.

29 The organization of unit owners must give the holder, insurer
30 or guarantor of any first mortgage on any unit in the
31 condominium who has so requested in writing written notice of
32 any 60 day delinquency in the payment of any assessment or
33 charges owed by the owner of any unit on which it holds a first
34 mortgage.”