



INSTALLATION OF ENERGY SAVING DEVICES: CONDO STATUTE UPDATES

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Ryan is an attorney with the law firm Mirrione, Shaughnessy & Uitti, LLC with experience in condominium association law and real estate transactions. His practice includes a focus on the general representation of condominium associations, including document interpretation, drafting, enforcement and collections. A Condo Media contributing writer, he is also a member of the CAI New England chapter Seminar & Conference Committee and Insurance Committee.

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Massachusetts General Laws Chapter 183A

Chapter 183A is the Massachusetts Condominium Statute. Condominiums are created pursuant to Chapter 183A and it applies to and governs all MA condominium associations, along with the governing documents of a condominium.

If you are a property manager, Board member, or unit owner, you should have knowledge of Chapter 183A.



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“An Act Promoting a Clean Energy Grid”

In 2024, the Massachusetts Legislature passed a bill entitled “An Act Promoting a Clean Energy Grid”

Part of that bill amended Chapter 183A:

- To revise Sections 6 and 10 regarding association energy saving devices and associated expenses.
- To add Section 10(A) regarding electric vehicle charging equipment installed by a unit owner.

The changes went into effect in February 2025.



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Association Board Powers as to Energy Saving Devices

- Chapter 183A, Section 10 was amended to expand association board powers as to installing energy saving devices – with approval of a simple majority of unit owners.
- Association boards now have the power to:
 - Require “reasonable measures to facilitate energy savings, energy efficiency and greenhouse gas emissions reductions”
 - To install devices “that result in energy savings, energy efficiency and greenhouse gas emissions reductions in all units not already separately metered for water and utilities”



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So What are these Energy Saving Devices?

- New:
 - Electric vehicle supply equipment to be installed in a common area or facility for the use of all residents.
 - Broad category: devices that result in energy savings, energy efficiency and greenhouse gas emissions reductions in all units not already separately metered for water and utilities.
- Existing prior to changes:
 - Separate meters for water, electricity, and utilities.
 - Low-flow toilets, showerheads, and faucet aerators
 - Windows and storm windows



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Energy Saving Devices & Common Area EV Supply Equipment Are Not Improvements

- The changes expand on powers that association boards already had to install energy saving devices with the approval of only a simple majority of unit owners in attendance at a unit owner meeting, rather than subject to a vote by unit owners on an improvement.
 - The simple majority standard is a relatively easy standard to meet.
 - Previously, common area EV charging equipment was considered an improvement.



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Solar Energy Systems Are Improvements

- Solar energy systems do not fall under the category of devices that result in energy savings under the amended Chapter 183A, Section 10.
- Solar energy systems would include common area solar panels, solar arrays, and solar battery systems.
- These solar energy systems are to be considered improvements, and as such they are not permitted to be installed with a simple majority vote.
- The legislature is treating solar power and EV chargers differently.



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What is an Improvement?

- Improvements are controlled by Chapter 183A, Section 18 and that language is typically restated in most governing documents.
- In their simplest terms, improvements are those items being added to a condominium that do not previously exist.
- Maintenance, repair, and replacement of common areas or common elements do not constitute improvements.
- Improvements require the approval of more than 75% of the unit owners in order to charge the cost of the improvement as a common expense.



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Assessing the Costs of Energy Saving Devices

- Chapter 183A, Section 6 was modified to allow Boards to assess to unit owners the cost of installation for all types of devices installed pursuant to Chapter 183A, Section 10.
- This would include common area electric vehicle charging equipment.



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Unit Owner Electric Vehicle Supply Equipment Chapter 183A, Section 10A

- Section 10A was added to Chapter 183A in Feb. 2025.
- 10A adds language regarding unit owner electric vehicle charging stations and electric vehicle supply equipment.
- Board powers as to unit owner EV charging stations are heavily modified and limited by this statutory change.



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Unit Owner EV Supply Equipment Board Powers – Or Lack Thereof

- Boards may not prohibit or unreasonably restrict an owner from installing an EV charging station “on or in an area to which the owner has exclusive use.”
 - Important standard – Does the unit owner have exclusive use of the parking space?
- Many other board powers revolve around the approval process and whether there is an existing architectural approval process.



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Unit Owner EV Supply Equipment Reasonable Restrictions

- Boards may set reasonable restrictions on the installation of a unit owner EV charging station.
- "Reasonable restrictions" are defined in the statute:
 - Reasonable restrictions are one that do not significantly:
 - (i) increase the cost of electric vehicle supply equipment as defined in section 2 of chapter 25B or the installation thereof; or
 - (ii) significantly decrease its efficiency or specified performance or effectively prohibit the installation.



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Unit Owner EV Supply Equipment Fees

- Boards may not charge a fee for the installation of an EV charger.
- Boards may charge a reasonable application fee ONLY if a fee already exists for architectural approval requests
 - Consider modifying the association's process to require an architectural approval processing fee if one does not already exist



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Unit Owner EV Supply Equipment Board Approval Process

- Boards may require an application before allowing an EV charger install. If there is an architectural modification application process, the Board must follow the same process that exists.
- Any board failure to respond to an application in writing within 60 days shall be deemed an approval by the board unless there has been a “reasonable request for additional information.”
- Consider adding an architectural approval process if the association does not already have one in place.



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Unit Owner EV Supply Equipment Installation Requirements

Electric vehicle charging equipment shall:

- Be installed at the owner's expense.
- Be installed by a licensed contractor or electrician; and
- Conform to all applicable health and safety standards and requirements imposed by national, state and local authorities and all other applicable zoning, land use or other ordinances and land use permits.



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Unit Owner EV Supply Equipment Unit Owner Responsibilities

- Owners are responsible to disclose to prospective buyers:
 - The existence of the EV charging equipment.
 - Responsibilities of the owner.
 - Whether the equipment is removable and will be removed.
- This should remove the need for Boards and management to get involved when a unit owner buys a unit with which an EV charging station is included.



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Unit Owner EV Supply Equipment Maintenance and Removal Cost

- Unit Owners are responsible for:
 - The costs of maintenance, repair, and replacement of their EV supply equipment.
 - The cost of any damage to the EV supply equipment, any common area or exclusive use common area resulting from the installation, maintenance, repair, removal, or replacement of an EV supply equipment.
 - Costs of removal of the EV supply equipment if the common area requires maintenance.



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Application/Approval Documents

Things to Consider:

- Formal applications are optional
- Adopting a formal application can outline all of the expectations and requirements the board has for an EV charger
 - Most of the application may simply reiterate what is in the statute, but having the Owner confirm their understanding of their requirements can be helpful if there is a dispute down the road
 - Applications can also create a uniform standard to follow
- Acceptance/Grant
 - Create a uniform document to record in the Registry so all future owners know
 - Or set up the application such that the approved application can be recorded in the Registry.



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Unit Owner EV Supply Equipment

Electricity Cost

- The unit owner is to connect the electric vehicle charging equipment to their own electric utility account unless the contractor deems it to be impossible.
- If the contractor deems it to be impossible to connect to the owner's utility account, the association shall allow the unit owner's EV supply equipment to be connected to the common area electricity account and may require "equitable reimbursement" from the owner to the association for the electricity used.



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EV and Solar Takeaways:

- Solar
 - For Condominiums: is still deemed an improvement and thus requires a vote of the owners to be installed.
 - For Unit Owners: still requires the consent of the Board and there is not automatic right to have them installed.
- EV Chargers
 - For Condominiums: are defined as not an improvement, and require a lower vote to pass.
 - For Unit Owners: requires the consent of the Board, but if the Owner has his/her own space, then the Board cannot prevent an EV charger from being installed.



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Other Statutory Changes

- Section 24 – Added in Aug. 2024
 - Created a statutory right to conduct meeting and vote on items using virtual/modern technology
 - No need to amend to create the permission
 - Does not address notice via email.
- Section 16 – Changed in Feb. 2025
 - Slight change about recording the Master Deed in Recorded Land and Registered Land – no practical change/impact.



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Large Building Energy Reporting: “LBER”

- MA law was amended in 2022 to require energy usage reporting for large buildings, those equal to or over 20,000 square feet.
- The figures reported will be used by the Department of Energy Resources (“DOER”) for purposes of disclosing energy usage.
- The relevant law is Massachusetts General Laws Chapter 25A, Section 20.



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Large Building Energy Reporting: “LBER”

- The energy usage reporting requirement starts in 2025.
- Buildings equal to or greater than 20,000 square feet must report.
- The DOER released a list of qualifying buildings, which can be viewed and searched online:
<https://www.mass.gov/info-details/large-building-energy-reporting-lber-covered-buildings-list>
- DOER was required to contact building owners about the reporting requirement.



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LBER Reporting for Utilities and Building Owners



- If your association is located in a covered building, the following are the reporting requirements, there are two reporting requirements, as follows:
 - Utility Company Reporting Requirements.
 - Building Owner (association) Reporting Requirements.
 - As a Trustee and/or property manager, these are the requirements you need to be sure to follow.
 - Search your association name online in the DOER database and determine whether your building qualifies.

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LBER Reporting Requirements



- Utility Company Reporting Requirements:
 - Electric, gas, and steam utilities were to report energy usage information to the DOER on or before June 30, 2025.
 - There is an exception for municipal utilities.
- Building Owner (association) Reporting Requirements:
 - Associations must report energy usage of fuel oil, propane, wood, and on-site solar generation.
 - Reporting can be done online. See guidance at: <https://www.mass.gov/how-to/how-to-respond-to-your-large-building-energy-reporting-letter>
 - If your association building does not use these other forms of energy, the association does not need to report.

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What is the point of LBER?



- Annually, not later than October 31 of each year, DOER shall make available on its website energy use information for the previous calendar year for each large building on a building-specific basis.
 - The information shall be published in database format, fully text-searchable and readily sortable by municipality, zip code and all the data elements in the database.
 - DOER shall use appropriate practices to prevent the public disclosure of personally identifying information regarding owners and tenants.
- DOER shall also prepare an annual comprehensive report on large building energy performance utilizing the information and data collected. The database and each annual report shall be public records.

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Penalties for Failure to Report

- The Department of Energy Resources may establish civil penalties for failure to comply with LBER's requirements.
 - No such penalty shall be assessed on or passed through to a lessee of a unit within a large building that comprises less than 5 per cent of the total gross floor area of the large building; and
 - Civil penalties shall not exceed \$150 per day.



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QUESTIONS



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