



House of Representatives

File No. 666

General Assembly

February Session, 2004 **(Reprint of File No. 406)**

House Bill No. 5356
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
April 26, 2004

AN ACT CONCERNING THE CONVEYANCING OF REAL PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) The town clerk of any
2 town shall accept for recording any certified copy of a deed or other
3 instrument affecting real property located in such town and recorded
4 in the land records of another town, provided such copy is certified by
5 the town clerk of the other town to be a true copy of the original deed
6 or other instrument recorded in such other town. When such certified
7 copy is so recorded, it shall have the same effect as a record of the
8 original deed or other instrument.

9 Sec. 2. Section 1-34 of the general statutes is amended by adding
10 subdivisions (5) and (6) as follows (*Effective October 1, 2004*):

11 (NEW) (5) By a limited liability company:

12 State of

13 County of

14 On this the day of, 20.., before me,, the undersigned officer,
 15 personally appeared who acknowledged himself to be the of, a
 16 (member managed or manager managed) limited liability company,
 17 and that he, as such, being authorized so to do, executed the
 18 foregoing instrument for the purposes therein contained, by signing
 19 the name of the limited liability company by himself as

20 In witness whereof I hereunto set my hand.

21
 22
 23 Title of Officer.

24 (NEW) (6) By a registered limited liability partnership:

25 State of
 26 County of

27 On this the day of, 20.., before me,, the undersigned officer,
 28 personally appeared who acknowledged himself to be the of, a
 29 registered limited liability partnership, and that he, as such, being
 30 authorized so to do, executed the foregoing instrument for the
 31 purposes therein contained, by signing the name of the registered
 32 limited liability partnership by himself as

33 In witness whereof I hereunto set my hand.

34
 35
 36 Title of Officer.

37 Sec. 3. Section 1-62 of the general statutes is amended by adding
 38 subdivisions (6) and (7) as follows (*Effective October 1, 2004*):

39 (NEW) (6) For a limited liability company:

40 State of

41 County of

42 The foregoing instrument was acknowledged before me this (date)
43 by (name and capacity of acknowledging member or manager) on
44 behalf of (name of limited liability company) a (member managed or
45 manager managed) (state of organization) limited liability company,
46 on behalf of the company.

47 (Signature of person taking acknowledgment)

48 (Title or rank)

49 (Serial number, if any)

50 (NEW) (7) For a registered limited liability partnership:

51 State of

52 County of

53 The foregoing instrument was acknowledged before me this (date)
54 by (name of acknowledging partner), partner (or agent) on behalf of
55 (name of registered limited liability partnership) a (state or place of
56 filing of certificate of registered limited liability partnership) registered
57 limited liability partnership, on behalf of the registered limited liability
58 partnership.

59 (Signature of person taking acknowledgment)

60 (Title or rank)

61 (Serial number, if any)

62 Sec. 4. Subsection (j) of section 47-236 of the general statutes is
63 repealed and the following is substituted in lieu thereof (*Effective*

64 October 1, 2004):

65 (j) If the declaration of a common interest community, whether
66 created before or after January 1, 1984, contains a provision requiring
67 that amendments relating to the use of units, the relocation of
68 boundaries between units and common elements or the extension or
69 creation of development rights may be adopted only by the vote or
70 agreement of unit owners of units to which more than eighty per cent
71 [or more] of the votes in the association are allocated, such a proposed
72 amendment shall be deemed approved if:

73 (1) (A) Unit owners of units to which [at least] more than eighty per
74 cent of the votes in the association are allocated vote for or agree to the
75 proposed amendment;

76 (B) No unit owner votes against the proposed amendment; and

77 (C) Notice of the proposed amendment is delivered to the unit
78 owners holding the votes in the association that have not voted or
79 agreed to the proposed amendment and no written objection of the
80 proposed amendment is received by the association within thirty days
81 after the association delivers notice; or

82 (2) Unit owners of units to which [at least] more than eighty per cent
83 of the votes in the association are allocated vote for or agree to the
84 proposed amendment but at least one unit owner objects to the
85 proposed amendment and, pursuant to an action brought by the
86 association in the Superior Court against all objecting unit owners, the
87 court finds that the objecting unit owner or owners do not have a
88 unique minority interest, different in kind from the interests of the
89 other unit owners, that the voting requirement of the declaration was
90 intended to protect.

91 Sec. 5. Subsection (b) of section 49-2 of the general statutes is
92 repealed and the following is substituted in lieu thereof (*Effective*
93 *October 1, 2004*):

94 (b) Advancements may be made by a mortgagee for repairs,
95 alterations or improvements and are a part of the debt due the
96 mortgagee, provided (1) advancements for [those] such repairs,
97 alterations or improvements shall not be made if the indebtedness at
98 the time of the advancement exceeds the amount of the original
99 mortgage debt; (2) the advancements shall not exceed the difference
100 between the indebtedness at the time of the advancement and the
101 original mortgage debt, if the original mortgage debt is greater than
102 the then indebtedness; (3) the total amount of all of the advancements
103 for repairs, alterations and improvements outstanding at any time
104 shall not exceed (A) one thousand dollars [; (4) the original mortgage
105 shall be executed and recorded after October 1, 1947; and (5)] as to
106 mortgages executed and recorded after October 1, 1947, but before
107 October 1, 2004, or (B) five thousand dollars as to mortgages executed
108 and recorded on or after October 1, 2004; and (4) the terms of
109 repayment of the advancements shall not increase the time of
110 repayment of the original mortgage debt.

111 Sec. 6. Section 49-92a of the general statutes is repealed and the
112 following is substituted in lieu thereof (*Effective October 1, 2004*):

113 (a) A purchaser's lien is created for the amount of the deposit paid
114 pursuant to and stated in a contract for the conveyance of land by the
115 recording of [that] such contract, or a notice thereof, in the records of
116 the town in which the land is situated, provided the contract, or notice
117 thereof, is executed by the owner and by the vendee of the land,
118 witnessed and acknowledged in the same manner as required for a
119 deed for the conveyance of land and describes the particular land to
120 which it refers. [That] Such purchaser's lien shall be prior to any other
121 liens and encumbrances originating after the contract, or notice
122 thereof, is recorded. A purchaser's lien may be foreclosed in the same
123 manner as a mortgage. Transfer of title of the land to the vendee
124 constitutes a release and discharge of the lien.

125 (b) Any notice recorded pursuant to this section shall, in addition to
126 the requirements set forth in subsection (a) of this section, include (1)

127 the address of the owner and the vendee, (2) the date provided in the
128 contract for the performance of such contract or, if such date is not
129 provided in such contract, the date on which such contract was
130 executed, and (3) the amount of the deposit paid pursuant to the
131 contract. Nothing in this subsection shall be construed to affect the
132 validity of any purchaser's lien created before the effective date of this
133 section.

134 Sec. 7. Section 49-92e of the general statutes is repealed and the
135 following is substituted in lieu thereof (*Effective October 1, 2004*):

136 Any person [] having an interest in any real estate described in any
137 recorded contract of sale, or notice thereof, creating a purchaser's lien
138 which is invalid but not discharged of record [] may give written
139 notice to the lienor to discharge the lien in the office where recorded. If
140 the request is not complied with in ten days, [that] such person may
141 bring his complaint to the court which would have jurisdiction of the
142 foreclosure of the lien, if valid, claiming such discharge of the lien, and
143 the court may adjudge the validity or invalidity of the lien and may
144 award the plaintiff damages for the failure of the defendant to make
145 discharge upon request. A certified copy of the judgment of invalidity,
146 recorded [on] in the land records of the town where such certificate of
147 lien was filed, fully discharges the lien.

148 Sec. 8. Section 49-92f of the general statutes is repealed and the
149 following is substituted in lieu thereof (*Effective October 1, 2004*):

150 Each person who has lodged for record a contract of sale, or notice
151 thereof, claiming a lien on any property under the provisions of
152 sections 49-92a to 49-92f, inclusive, shall, after receiving satisfaction of
153 his claim or after the rendition of a final judgment against him
154 showing that nothing is due thereon, within ten days after being
155 requested in writing to do so by any person interested in having the
156 lien removed, sign and lodge, in the office in which his original
157 contract of sale, or notice thereof, was filed for record, a certificate that
158 such lien is removed, which, when recorded, shall discharge such lien.

159 If he fails to comply with such request, he shall pay to the party
160 aggrieved such sum, not exceeding half the amount claimed by his
161 lien, as the court having cognizance of the action brought therefor may
162 determine.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>
Sec. 4	<i>October 1, 2004</i>
Sec. 5	<i>October 1, 2004</i>
Sec. 6	<i>October 1, 2004</i>
Sec. 7	<i>October 1, 2004</i>
Sec. 8	<i>October 1, 2004</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The provisions of the bill deal with conveyances of real property between private parties, and make minor changes that have no fiscal impact.

House Amendment "A" made minor changes that have no fiscal impact.

OLR BILL ANALYSIS

HB 5356 (as amended by House "A")*

AN ACT CONCERNING THE CONVEYANCING OF REAL PROPERTY**SUMMARY:**

The bill:

1. authorizes town clerks to record a certified copy of a deed or other instrument affecting real estate in their town, when the original was recorded in another town;
2. establishes statutory forms of acknowledgment for limited liability companies and registered limited liability partnerships;
3. clarifies certain voting requirements in condominiums and other common interest communities concerning the use of, or the boundaries between, units and common elements;
4. for mortgages executed and recorded after September 30, 2004, increases from \$1,000 to \$5,000 the maximum amount a mortgagee (lender) can add to the mortgage debt for advancements for repairs, alterations, or improvements; and
5. allows someone who has a contract to buy real estate to obtain a purchaser's lien on it by recording on the land records of the town where the property is located a notice of contract that contains certain information rather than recording the contract itself.

EFFECTIVE DATE: October 1, 2004

*House Amendment "A" eliminates provisions in the original bill concerning mortgage releases and assignments and makes a technical change.

CERTIFIED COPIES OF DEEDS

The bill authorizes town clerks to record a copy of a deed or other instrument affecting real estate located in their town that is recorded in the land records of another town. They may do so only if the copy is certified by the other town's clerk to be a true copy of the deed or instrument recorded in that town. When the copy is recorded, it has the same legal effect as if the original had been recorded.

CONDOMINIUMS

Under current law, if the declaration of a pre- or post-1984 condominium or other common interest community contains a provision requiring that amendments on unit use, boundary relocation between units and common elements, or extension or creation of development rights need the vote or agreement of unit owners holding 80% or more of the association votes, an amendment is deemed approved if:

1. unit owners with at least 80% of the votes approve it,
2. no unit owner votes against it, and
3. unit owners who have the right to vote but have not done so are notified of the proposed amendment and the association receives no written objection within 30 days.

The amendment also is approved, even if one or more unit owner objects, if, pursuant to a legal proceeding brought by the association in Superior Court against all objecting unit owners, the court finds that the objecting parties do not have a unique minority interest different in kind from the interests of other unit owners who the declaration's voting requirements were intended to protect.

The bill specifies that this procedure applies only if the provision requires a vote of higher than 80% and not if the provision requires an 80% vote.

PURCHASER'S LIEN

Under existing law, a purchaser's lien is created for the amount of the deposit paid pursuant to, and stated in, a contract for conveying land by the recording the contract in the land records of the town in which the land is situated. To create the lien, the contract must be executed by

the owner and buyer, witnessed and acknowledged in the same manner as required for a deed, and describe the particular land to which it refers. The purchaser's lien has priority over any other liens and encumbrances that originate after the contract is recorded. A purchaser's lien may be foreclosed in the same manner as a mortgage. Transfer of title of the land to the purchaser constitutes a release and discharge of the lien.

The bill allows someone also to obtain a purchaser's lien by recording a notice of contract that contains certain information on the land records of the town where the property is located. The notice must be executed by the owner and buyer, witnessed and acknowledged in the same manner as a deed, and describe the particular property to be purchased.

It must also include the

1. owner's and buyer's address,
2. date provided in the contract for the performance of the contract or, if this date is not provided, the date on which the contract was executed, and
3. deposit amount.

The bill specifies that it may not be interpreted to affect the validity of any purchaser's lien created before October 1, 2004.

The bill makes the procedures that currently apply for discharging a purchaser's lien created by recording the contract apply to a purchaser lien created by filing a notice of contract.

BACKGROUND

Common Interest Community

A common interest community is real property described in a declaration with respect to which a person, by virtue of owning a unit, must pay for property taxes, insurance premiums, or maintenance or improvements of any other real property. A common interest community can be a condominium, cooperative, or planned community.

A condominium generally involves individually owned units in a multi-unit complex in which the owner acquires an undivided proportionate interest in areas and facilities that are common to all unit owners. These can range from the building's lobby, grounds, and electrical and mechanical systems to recreational facilities, such as swimming pools and tennis courts. In a "cooperative," an association owns all of the real property and each association member is entitled to the exclusive possession of a unit. A "planned community" is another arrangement where, by virtue of owning a unit, an individual must pay for real estate taxes, insurance premiums, or maintaining or improving of any real property other than the unit.

The main difference between a planned community and a condominium is that in the former, common areas are held in the name of the homeowners' association instead of being divided among the unit owners as tenants in common.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report
Yea 39 Nay 0