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**COMMENTS CONCERNING COMMITTEE BILL NO. 590
AN ACT CONCERNING THE MANAGEMENT
OF COMMON INTEREST COMMUNITIES
BY SCOTT J. SANDLER, ESQ.**

Summary.

This bill proposes to amend Section 47-248 of the Connecticut Common Interest Ownership Act, which sets out the requirements of the bylaws of the associations of unit owners of common interest communities created in 1984 and after in Connecticut. The bill would set term limits on the officers and directors of the associations.

The Connecticut State Legislature should not enact this bill for the following reasons:

1. The bill is unnecessary because the officers and directors of the association ultimately serve at the pleasure of the unit owners within the community. Connecticut law currently contains adequate provisions governing the election and removal of directors, which enable unit owners to control the make up of both officers and directors.
2. This bill will make it much more difficult for associations to find good leadership because it limits the pool of potential volunteers. Over time, these limitations may actually make it impossible for associations to comply with other laws, and their own documents, governing the election of directors.

Scott J. Sandler.

I am a lawyer in private practice in Farmington, Connecticut. For the past several years I have concentrated my practice on condominium and community association law. My office currently represents approximately 300 condominium and community associations across the state.

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I am presently the vice president and president-elect of the Connecticut Chapter of the Community Associations Institute. Over the past several years, I have written and lectured on issues of condominium law for the Community Associations Institute, as well as other institutions that provide continuing education to professionals such as lawyers and insurance agents.

I am submitting my comments, and appearing before the committee, not on behalf of any client of our office or of any organization but only to present my insights into how the proposed bill will affect the Common Interest Ownership Act, the thousands of common interest communities in Connecticut, and the hundreds of thousands of people who live in them.

The Common Interest Ownership Act.

The Connecticut Common Interest Ownership Act is based on the uniform Common Interest Ownership Act originally promulgated by the Commissioners on Uniform State Laws in 1982. Connecticut became the first state in the United States to adopt the Act in 1983. It is presently, in one form or another, the law now in 19 states. The Commissioners on Uniform State Laws amended the Uniform Common Interest Ownership Act in 1994 based in part on our experience with the Act here in Connecticut. Many of the 1994 amendments were adopted by the General Assembly in 1995.

The Uniform Common Interest Ownership Act, like many other uniform state laws, reflects the thought and input of many experienced lawyers and other professionals from all parts of the country. It is designed to work as an interrelated whole and makes great use of defined terms and multiple provisions which must work in concert. This does not mean that individual provisions of the Act cannot be amended. It does mean that the provisions of the Act must be carefully reviewed and modified with close attention to how these provisions relate to other provisions in the Act.

The Connecticut Revised Nonstock Corporation Act.

The associations of most common interest communities in Connecticut are incorporated as nonstock corporations. As such, they are also subject to the requirements of the Connecticut Revised Nonstock Corporations Act. Under Section 47-207 of the Common Interest Ownership Act, if a provision of the Revised Nonstock Corporations Act contradicts a provision of the Common Interest Ownership Act, then the Common Interest Ownership Act shall prevail.

Association Leadership.

The leadership of an association, including its officers and directors, are primarily

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volunteers from within the community. Naturally, larger communities offer a larger pool of potential volunteers.

However, even in larger communities, associations often have difficulty finding people who are willing to volunteer their time and attention to leading the community. Serving as a leader within an association usually means having to give up time each month to attend meetings, working to solve complicated and often contentious problems, continually educating oneself to be sure that the needs of the community are met, all typically in exchange for no financial compensation.

Furthermore, many people who live in common interest communities chose to purchase their units, rather than homes that are not in such communities, for convenience. They wanted to have the benefit of an association that will take care of maintenance and other similar issues for them.

As a result, finding good leadership is a challenge faced by many associations. Once they find good leadership, associations typically want those leaders to remain for as long as possible.

The Problem with the Proposed Bill.

The proposed bill limits the terms of the officers and directors of associations to two years, and further limits individuals from serving no more than two terms.

There is no need to enact this bill. The directors serve at the pleasure of the unit owners, and since the officers serve at the pleasure of the directors, the unit owners control the appointment of officers through their chosen directors.

Associations conduct elections each year to elect directors whose terms are expiring. If the current directors are not meeting the needs of the community, the unit owners may replace them when their terms expire. Furthermore, both Subsection 47-145(g) of the Common Interest Ownership Act and Section 33-1088 of the Nonstock Revised Corporations Act permit unit owners, acting as a group, to remove directors prior to the expiration of their terms.

Furthermore, the limitations set out in this bill would essentially disqualify members of the community, who have served as officers and directors, from ever serving again. In doing so, the pool of potential volunteers would become smaller and smaller. Eventually, the association may reach a point where no one in the community may serve as an officer or director because they have been disqualified.

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Common interest communities in Connecticut may be as small as two units and as large as hundreds of units. Though I am unaware of any formal data on the subject, my professional experience tells me that most communities in Connecticut are smaller in size.

With that in mind, imagine a common interest community containing 10 units. Under Subsection 47-245(f) of the Common Interest Ownership Act and Subsection 33-1082(a) of the Revised Nonstock Corporation Act, the board of the association must have at least 3 members. Under the proposed bill, these 3 members may serve for no more than 4 years each. After 12 years have passed, 9 out of 10 unit owners have served the maximum number of terms. At this point, only one unit owner would be qualified to serve on the board pursuant to the proposed bill. However, the board needs a minimum of 3 members. The association cannot possibly comply with requirements of both the proposed bill, Subsection 47-245(f) of the Common Interest Ownership Act and Subsection 33-1082(a) of the Revised Nonstock Corporation Act.

Conclusion.

The limitations contained in Committee Bill No. 590 are unnecessary. The officers and directors of the association ultimately serve at the pleasure of the unit owners within the community. Connecticut law currently contains adequate provisions governing the election and removal of directors, which enable unit owners to control the make up of both officers and directors.

Additionally, this bill will make it much more difficult for associations to find good leadership because it limits the pool of potential volunteers. Over time, these limitations may actually make it impossible for associations to comply with other laws, and their own documents, governing the election of directors.

If I can be of any further assistance to the Committee, please feel free to contact me.