



General Assembly

**Substitute Bill No. 6672**

January Session, 2009

\* \_\_\_\_\_ HB06672JUD\_\_040309\_\_\_\_\_ \*

**AN ACT CONCERNING THE 2008 AMENDMENTS TO THE UNIFORM  
COMMON INTEREST OWNERSHIP ACT.**

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

1 Section 1. Section 47-202 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 [In the declaration and bylaws, unless specifically provided  
4 otherwise or the context otherwise requires, and in] For purposes of  
5 this chapter:

6 (1) "Affiliate of a declarant" means any person who controls, is  
7 controlled by, or is under common control with a declarant. (A) A  
8 person "controls" a declarant if the person (i) is a general partner,  
9 officer, director, or employer of the declarant, (ii) directly or indirectly  
10 or acting in concert with one or more other persons, or through one or  
11 more subsidiaries, owns, controls, holds with power to vote, or holds  
12 proxies representing, more than twenty per cent of the voting interest  
13 in the declarant, (iii) controls in any manner the election of a majority  
14 of the directors of the declarant, or (iv) has contributed more than  
15 twenty per cent of the capital of the declarant. (B) A person "is  
16 controlled by" a declarant if the declarant (i) is a general partner,  
17 officer, director, or employer of the person, (ii) directly or indirectly or  
18 acting in concert with one or more other persons, or through one or  
19 more subsidiaries, owns, controls, holds with power to vote, or holds

20 proxies representing, more than twenty per cent of the voting interest  
21 in the person, (iii) controls in any manner the election of a majority of  
22 the directors of the person, or (iv) has contributed more than twenty  
23 per cent of the capital of the person. Control does not exist if the  
24 powers described in this subsection are held solely as security for an  
25 obligation and are not exercised.

26 (2) "Allocated interests" means the following interests allocated to  
27 each unit: (A) In a condominium, the undivided interest in the  
28 common elements, the common expense liability, and votes in the  
29 association; (B) in a cooperative, the common expense liability and the  
30 ownership interest and votes in the association; and (C) in a planned  
31 community, the common expense liability and votes in the association.

32 (3) "Assessment" means the sum attributable to each unit and due to  
33 the association pursuant to section 47-257, as amended by this act.

34 ~~[(3)]~~ (4) "Association" or "unit owners' association" means the unit  
35 owners' association organized under section 47-243, as amended by  
36 this act.

37 (5) "Bylaws" means the instruments, however denominated, that  
38 contain the procedures for conduct of the affairs of the association  
39 regardless of the form in which the association is organized, including  
40 any amendments to the instruments.

41 ~~[(4)]~~ (6) "Common elements" means (A) in the case of (i) a  
42 condominium or cooperative, all portions of the common interest  
43 community other than the units; and (ii) a planned community, any  
44 real property within a planned community owned or leased by the  
45 association, other than a unit, and (B) in all common interest  
46 communities, any other interests in real property for the benefit of unit  
47 owners which are subject to the declaration.

48 ~~[(5)]~~ (7) "Common expenses" means expenditures made by, or  
49 financial liabilities of, the association, together with any allocations to  
50 reserves.

51 [(6)] (8) "Common expense liability" means the liability for common  
52 expenses allocated to each unit pursuant to section 47-226.

53 [(7)] (9) "Common interest community" means real property  
54 described in a declaration with respect to which a person, by virtue of  
55 his ownership of a unit, is obligated to pay for a share of (A) real  
56 property taxes on, (B) insurance premiums on, (C) maintenance of, or  
57 (D) improvement of, or services or other expenses related to, common  
58 elements, other units or any other real property other than that unit  
59 described in the declaration. ["Ownership] "Common interest  
60 community" does not include an arrangement described in section 8 or  
61 9 of this act. For purposes of this subdivision, "ownership of a unit"  
62 includes holding a leasehold interest of forty years or more in a unit,  
63 including renewal options. "Ownership of a unit" does not include the  
64 interest which a resident holds in a mutual housing association, as  
65 defined in subsection (b) of section 8-214f, by virtue of either a state  
66 contract for financial assistance or an individual occupancy agreement.  
67 An association of property owners funded solely by voluntary  
68 payments from those owners is not a common interest community.

69 [(8)] (10) "Condominium" means a common interest community in  
70 which portions of the real property are designated for separate  
71 ownership and the remainder of the real property is designated for  
72 common ownership solely by the owners of those portions. A common  
73 interest community is not a condominium unless the undivided  
74 interests in the common elements are vested in the unit owners.

75 [(9)] (11) "Conversion building" means a building that at any time  
76 before creation of the common interest community was occupied  
77 wholly or partially by persons other than purchasers and persons who  
78 occupy with the consent of purchasers.

79 [(10)] (12) "Cooperative" means a common interest community in  
80 which the real property is owned by an association, each of whose  
81 members is entitled by virtue of his ownership interest in the  
82 association to exclusive possession of a unit.

83        [(11)] (13) "Dealer" means a person who owns either six or more  
84 units, or fifty per cent or more of all the units, in a common interest  
85 community.

86        [(12)] (14) "Declarant" means any person or group of persons acting  
87 in concert who (A) as part of a common promotional plan, offers to  
88 dispose of his interest in a unit not previously disposed of or (B)  
89 reserves or succeeds to any special declarant right.

90        [(13)] (15) "Declaration" means any instruments, however  
91 denominated, that create a common interest community, including any  
92 amendments to those instruments.

93        [(14)] (16) "Development rights" means any right or combination of  
94 rights reserved by a declarant in the declaration to (A) add real  
95 property to a common interest community; (B) create units, common  
96 elements, or limited common elements within a common interest  
97 community; (C) subdivide units or convert units into common  
98 elements; or (D) withdraw real property from a common interest  
99 community.

100       [(15)] (17) "Dispose" or "disposition" means a voluntary transfer to a  
101 purchaser of any legal or equitable interest in a unit, but the term does  
102 not include the transfer or release of a security interest.

103       [(16)] (18) "Executive board" means the body, regardless of name,  
104 designated in the declaration to act on behalf of the association.

105       [(17)] (19) "Identifying number" means a symbol or address that  
106 identifies only one unit in a common interest community.

107       [(18)] (20) "Leasehold common interest community" means a  
108 common interest community in which all or a portion of the real  
109 property is subject to a lease the expiration or termination of which  
110 will terminate the common interest community or reduce its size.

111       [(19)] (21) "Limited common element" means a portion of the  
112 common elements allocated by the declaration or by operation of

113 subsection (2) or (4) of section 47-221 for the exclusive use of one or  
114 more but fewer than all of the units.

115 [(20)] (22) "Master association" means an organization described in  
116 section 47-239, whether or not it is also an association described in  
117 section 47-243, as amended by this act.

118 [(21)] (23) "Offer" or "offering" means any advertisement,  
119 inducement, solicitation or attempt to encourage any person to acquire  
120 any interest in a unit, other than as security for an obligation. An  
121 advertisement in a newspaper or other periodical of general  
122 circulation, or in any broadcast medium to the general public, of a  
123 common interest community not located in this state, is not an offering  
124 if the advertisement states that an offering may be made only in  
125 compliance with the law of the jurisdiction in which the common  
126 interest community is located.

127 [(22)] (24) "Person" means an individual, corporation, limited  
128 liability company, business trust, estate, trust, partnership, association,  
129 joint venture, government, governmental subdivision or agency, or  
130 other legal or commercial entity.

131 [(23)] (25) "Planned community" means a common interest  
132 community that is not a condominium or a cooperative. A  
133 condominium or cooperative may be part of a planned community.

134 [(24)] (26) "Proprietary lease" means an agreement with the  
135 association pursuant to which a member is entitled to exclusive  
136 possession of a unit in a cooperative.

137 [(25)] (27) "Purchaser" means a person, other than a declarant or a  
138 dealer, who by means of a voluntary transfer acquires a legal or  
139 equitable interest in a unit other than (A) a leasehold interest,  
140 including renewal options, of less than twenty years, or (B) as security  
141 for an obligation.

142 [(26)] (28) "Real property" means any leasehold or other estate or

143 interest in, over, or under land, including structures, fixtures, and  
144 other improvements and interests that by custom, usage, or law pass  
145 with a conveyance of land though not described in the contract of sale  
146 or instrument of conveyance. "Real property" includes parcels with or  
147 without upper or lower boundaries, and spaces that may be filled with  
148 air or water.

149 (29) "Record", used as a noun, means information that is inscribed  
150 on a tangible medium or that is stored in an electronic or other  
151 medium and is retrievable in perceivable form.

152 [(27)] (30) "Residential purposes" means use for dwelling or  
153 recreational purposes, or both.

154 (31) "Rule" means a policy, guideline, restriction, procedure or  
155 regulation of an association, however denominated, which is not set  
156 forth in the declaration or bylaws and which governs the conduct of  
157 persons or the use or appearance of property.

158 [(28)] (32) "Security interest" means an interest in real property or  
159 personal property, created by contract or conveyance, which secures  
160 payment or performance of an obligation. The term includes a lien  
161 created by a mortgage, deed of trust, trust deed, security deed, contract  
162 for deed, land sales contract, lease intended as security, assignment of  
163 lease or rents intended as security, pledge of an ownership interest in  
164 an association, and any other consensual lien or title retention contract  
165 intended as security for an obligation.

166 [(29)] (33) "Special declarant rights" means rights reserved for the  
167 benefit of a declarant to (A) complete improvements indicated on  
168 surveys and plans filed with the declaration or, in a cooperative, to  
169 complete improvements described in the public offering statement  
170 pursuant to subdivision (2) of subsection (a) of section 47-264, as  
171 amended by this act; (B) exercise any development right; (C) maintain  
172 sales offices, management offices, signs advertising the common  
173 interest community, and models; (D) use easements through the  
174 common elements for the purpose of making improvements within the

175 common interest community or within real property which may be  
176 added to the common interest community; (E) make the common  
177 interest community subject to a master association; (F) merge or  
178 consolidate a common interest community with another common  
179 interest community of the same form of ownership; [or] (G) appoint or  
180 remove any officer of the association or any master association or any  
181 executive board member during any period of declarant control; (H)  
182 control any construction, design review or aesthetic standards  
183 committee or process; (I) attend meetings of the unit owners and,  
184 except during an executive session, the executive board; or (J) have  
185 access to the records of the association to the same extent as a unit  
186 owner.

187 [(30)] (34) "Time share" means a right to occupy a unit or any of  
188 several units during five or more separated time periods over a period  
189 of at least five years, including renewal options, whether or not  
190 coupled with an estate or interest in a common interest community or  
191 a specified portion thereof.

192 [(31)] (35) "Unit" means a physical portion of the common interest  
193 community designated for separate ownership or occupancy, the  
194 boundaries of which are described pursuant to subdivision (5) of  
195 subsection (a) of section 47-224, as amended by this act. If a unit in a  
196 cooperative is owned by a unit owner or is sold, conveyed, voluntarily  
197 or involuntarily encumbered or otherwise transferred by a unit owner,  
198 the interest in that unit which is owned, sold, conveyed, encumbered  
199 or otherwise transferred is the right to possession of that unit under a  
200 proprietary lease, coupled with the allocated interests of that unit, and  
201 the association's interest in that unit is not thereby affected.

202 [(32)] (36) "Unit owner" means a declarant or other person who  
203 owns a unit, or a lessee of a unit in a leasehold common interest  
204 community whose lease expires simultaneously with any lease the  
205 expiration or termination of which will remove the unit from the  
206 common interest community, but does not include a person having an  
207 interest in a unit solely as security for an obligation. In a condominium

208 or planned community, the declarant is the owner of any unit created  
209 by the declaration. In a cooperative, the declarant is treated as the  
210 owner of any unit to which allocated interests have been allocated  
211 until that unit has been conveyed to another person.

212 Sec. 2. (NEW) (*Effective October 1, 2009*) Chapter 828 of the general  
213 statutes, as amended by this act, and sections 8, 9, 13, 17 and 31 to 35,  
214 inclusive, of this act, modify, limit and supersede the federal Electronic  
215 Signatures in Global and National Commerce Act, 15 USC 7001, et seq.,  
216 but does not modify, limit or supersede Section 101(c) of that act, 15  
217 USC 7001(c), or authorize electronic delivery of any of the notices  
218 described in Section 103(b) of that act, 15 USC 7003(b).

219 Sec. 3. Section 47-214 of the general statutes is repealed and the  
220 following is substituted in lieu thereof (*Effective October 1, 2009*):

221 Except as provided in section 47-215, as amended by this act, the  
222 provisions of this chapter apply to all common interest communities  
223 created within this state on or after January 1, 1984. The provisions of  
224 chapter 825 do not apply to condominiums created on or after January  
225 1, 1984. Amendments to this chapter apply to all common interest  
226 communities created after January 1, 1984, or subjected to this chapter  
227 by amendment of the declaration of the common interest community,  
228 regardless of when the amendment is adopted.

229 Sec. 4. Section 47-215 of the general statutes is repealed and the  
230 following is substituted in lieu thereof (*Effective October 1, 2009*):

231 (a) Except as provided in subsection (b) of this section with respect  
232 to a common interest community containing a conversion building:

233 (1) If a common interest community contains only units restricted  
234 exclusively to nonresidential use:

235 (A) The common interest community is not subject to this chapter  
236 unless the declaration otherwise provides;

237 (B) The declaration of such a common interest community may

238 provide that this entire chapter applies to the community, that only  
239 this part and part II of this chapter apply or that only sections 47-204,  
240 47-205 and 47-206 apply;

241 (C) If the declaration provides that this entire chapter applies to  
242 such a common interest community, the declaration may also require,  
243 subject to section 47-210, that: (i) Notwithstanding section 47-247, as  
244 amended by this act, any management contract, employment contract,  
245 lease of recreational or parking areas or facilities and any other  
246 contract or lease between the association and a declarant or an affiliate  
247 of a declarant remains effective after the declarant turns over control of  
248 the association; and (ii) notwithstanding section 47-203, purchasers of  
249 units must execute proxies, powers of attorney or similar devices in  
250 favor of the declarant regarding particular matters enumerated in  
251 those instruments.

252 (2) If a common interest community contains units restricted  
253 exclusively to nonresidential purposes and other units that may be  
254 used for residential purposes, that common interest community is not  
255 subject to this chapter unless the units that may be used for residential  
256 purposes would comprise a common interest community in the  
257 absence of the nonresidential units or the declaration provides that this  
258 chapter applies as provided in subparagraph (B) or (C) of subdivision  
259 (1) of this subsection.

260 (3) If the declaration of a planned community that is not subject to  
261 any development right provides that the annual average common  
262 expense liability of all units restricted to residential purposes,  
263 exclusive of optional user fees and any insurance premiums paid by  
264 the association, may not exceed three hundred dollars, as adjusted  
265 pursuant to section 47-213, the planned community is subject only to  
266 sections 47-204, 47-205 and 47-206 unless the declaration provides that  
267 this entire chapter is applicable. However, this exemption applies only  
268 if:

269 (A) The declarant reasonably believes in good faith that the

270 maximum annual common expense liability assessed against the units  
271 will be sufficient to pay the expenses of the planned community; and

272 (B) The declaration provides that the annual common expense  
273 liability may not be increased during the period of declarant control  
274 without the consent of persons entitled to cast at least eighty per cent  
275 of the votes in the association, including eighty per cent of the votes  
276 allocated to units not owned by a declarant or an affiliate of a  
277 declarant.

278 (b) In the case of a common interest community containing a  
279 conversion building, sections 47-282 to 47-292, inclusive, apply  
280 whether or not the common interest community is exempt from other  
281 provisions of this chapter pursuant to subsection (a) of this section.  
282 The provisions of sections 47-282 to 47-292, inclusive, apply to a  
283 common interest community containing a conversion building created  
284 on or after July 8, 1983. The provisions of sections 47-88b to 47-88g,  
285 inclusive, do not apply to a condominium containing a conversion  
286 building created on or after July 8, 1983.

287 (c) If a common interest community contains no more than twelve  
288 units and (1) is not subject to any development rights and (2) does not  
289 utilize a master association, the declarant is not required to deliver a  
290 public offering statement pursuant to section 47-263, as amended by  
291 this act, or 47-264, as amended by this act; resale certificates are not  
292 required, as provided in section 47-270, and the association is not  
293 required to maintain records necessary to comply with section 47-270.  
294 A declarant shall not divide real property into two or more common  
295 interest communities to avoid the public offering statement  
296 requirements of sections 47-263, as amended by this act, and 47-264, as  
297 amended by this act.

298 Sec. 5. Section 47-216 of the general statutes is repealed and the  
299 following is substituted in lieu thereof (*Effective October 1, 2009*):

300 (a) Except as provided in section 47-217, sections 47-202, as  
301 amended by this act, 47-204, 47-205, 47-206, 47-218, as amended by this

302 act, 47-221, 47-222, as amended by this act, 47-223, subsections (b), (i)  
303 and (j) of section 47-236, as amended by this act, section 17 of this act,  
304 47-240, 47-244, as amended by this act, 47-245, as amended by this act,  
305 section 35 of this act, sections 47-253, 47-258, as amended by this act,  
306 47-260, as amended by this act, 47-270 and 47-278, as amended by this  
307 act, and subsection (j) of section 47-236, as amended by this act, [and  
308 section 47-202] to the extent necessary in construing any of those  
309 sections, apply to all common interest communities created in this state  
310 before January 1, 1984; but those sections apply only with respect to  
311 events and circumstances occurring after January 1, 1984, and do not  
312 invalidate existing provisions of the declaration, bylaws or surveys or  
313 plans of those common interest communities.

314 (b) Section 47-210 and subsections (b) to (d), inclusive, of section 47-  
315 225 apply to all common interest communities created in this state  
316 prior to January 1, 1984, but shall not invalidate existing provisions of  
317 the declarations, bylaws or surveys or plans of those common interest  
318 communities.

319 Sec. 6. Section 47-218 of the general statutes is repealed and the  
320 following is substituted in lieu thereof (*Effective October 1, 2009*):

321 (a) The declaration, bylaws or surveys and plans of any common  
322 interest community created before January 1, 1984, may be amended to  
323 achieve any result permitted by this chapter regardless of what  
324 applicable law provided before January 1, 1984.

325 (b) [An] Except as otherwise provided in subsections (i) and (j) of  
326 section 47-236, as amended by this act, an amendment to the  
327 declaration, bylaws or surveys and plans authorized by subsection (a)  
328 of this section shall be adopted in conformity with any procedures and  
329 requirements for amending the instruments specified by those  
330 instruments or, if there are none, in conformity with the amendment  
331 procedures of this chapter. If an amendment grants to any person any  
332 rights, powers or privileges permitted by this chapter, all correlative  
333 obligations, liabilities and restrictions in this chapter also apply to that

334 person.

335 Sec. 7. Section 47-219 of the general statutes is repealed and the  
336 following is substituted in lieu thereof (*Effective October 1, 2009*):

337 This chapter does not apply to common interest communities or  
338 units located outside this state, but the public offering statement  
339 provisions of sections 47-263 to 47-269, inclusive, as amended by this  
340 act, apply to all contracts for the disposition [thereof] of a unit in that  
341 common interest community signed in this state by any party  
342 following an offer made in this state unless exempt under subsection  
343 (b) of section 47-262.

344 Sec. 8. (NEW) (*Effective October 1, 2009*) (a) An arrangement between  
345 the associations for two or more common interest communities to  
346 share the costs of real property taxes, insurance premiums, services,  
347 maintenance or improvements of real property, or other activities  
348 specified in their arrangement or declarations does not create a  
349 separate common interest community.

350 (b) An arrangement between an association and the owner of real  
351 property that is not part of a common interest community to share the  
352 costs of real property taxes, insurance premiums, services,  
353 maintenance or improvements of real property, or other activities  
354 specified in their arrangement does not create a separate common  
355 interest community, except that assessments against the units in the  
356 common interest community required by the arrangement must be  
357 included in the periodic budget for the common interest community,  
358 and the arrangement must be disclosed in all public offering  
359 statements and resale certificates required by chapter 828 of the  
360 general statutes, as amended by this act, and sections 2, 9, 13, 17 and 31  
361 to 35, inclusive, of this act.

362 Sec. 9. (NEW) (*Effective October 1, 2009*) A covenant that requires the  
363 owners of separately owned parcels of real property to share costs or  
364 other obligations associated with a party wall, driveway, well or other  
365 similar use does not create a common interest community unless the

366 owners otherwise agree.

367 Sec. 10. Section 47-222 of the general statutes is repealed and the  
368 following is substituted in lieu thereof (*Effective October 1, 2009*):

369 (a) All provisions of the declaration and bylaws are severable.

370 (b) The rule against perpetuities does not apply to defeat any  
371 provision of the declaration or of the bylaws [.] or rules. [or regulations  
372 adopted pursuant to subdivision (1) of subsection (a) of section 47-  
373 244.]

374 (c) In the event of a conflict between the provisions of the  
375 declaration and the bylaws, the declaration prevails except to the  
376 extent the declaration is inconsistent with this chapter.

377 (d) Title to a unit and common elements is not rendered  
378 unmarketable or otherwise affected by reason of an insubstantial  
379 failure of the declaration to comply with this chapter. Whether a  
380 substantial failure impairs marketability is not affected by this chapter.

381 (e) In any case in which the surveys or plans required pursuant to  
382 section 47-228, as identified in the declaration, are not recorded  
383 simultaneously with the remainder of the declaration but are recorded  
384 thereafter, the failure to record the survey or plans simultaneously  
385 with the remainder of the declaration is an insubstantial failure of the  
386 declaration to comply with this chapter.

387 Sec. 11. Section 47-224 of the general statutes is repealed and the  
388 following is substituted in lieu thereof (*Effective October 1, 2009*):

389 (a) The declaration shall contain:

390 (1) The names of the common interest community and the  
391 association and a statement that the common interest community is  
392 either a condominium, cooperative or planned community;

393 (2) The name of every town in which any part of the common

394 interest community is situated;

395 (3) A legally sufficient description of the real property included in  
396 the common interest community;

397 (4) A statement of the maximum number of units that the declarant  
398 reserves the right to create;

399 (5) In a condominium or planned community, a description of the  
400 boundaries of each unit created by the declaration, including the unit's  
401 identifying number or, in a cooperative, a description, which may be  
402 by surveys or plans, of each unit created by the declaration, including  
403 the unit's identifying number, its size or number of rooms and its  
404 location within a building if it is within a building containing more  
405 than one unit;

406 (6) A description of any limited common elements, other than those  
407 specified in subsections (2) and (4) of section 47-221, as provided in  
408 subdivision (10) of subsection (b) of section 47-228 and, in a planned  
409 community, any real property that is or must become common  
410 elements;

411 (7) A description of any real property, except real property subject  
412 to development rights, that may be allocated subsequently as limited  
413 common elements, other than limited common elements specified in  
414 subsections (2) and (4) of section 47-221, together with a statement that  
415 they may be so allocated;

416 (8) A description of any development rights, as defined in  
417 [subsection (14)] subdivision (16) of section 47-202, as amended by this  
418 act, and other special declarant rights, as defined in [subsection (29)]  
419 subdivision (33) of section 47-202, as amended by this act, reserved by  
420 the declarant, together with a legally sufficient description of the real  
421 property to which each of those rights applies and a time limit within  
422 which each of those rights must be exercised;

423 (9) If any development right may be exercised with respect to

424 different parcels of real property at different times, a statement to that  
425 effect together with (A) either a statement fixing the boundaries of  
426 those portions and regulating the order in which those portions may  
427 be subjected to the exercise of each development right or a statement  
428 that no assurances are made in those regards, and (B) a statement as to  
429 whether, if any development right is exercised in any portion of the  
430 real property subject to that development right, that development right  
431 must be exercised in all or in any other portion of the remainder of that  
432 real property;

433 (10) Any other conditions or limitations under which the rights  
434 described in subdivision (8) of this subsection may be exercised or will  
435 lapse;

436 (11) An allocation to each unit of the allocated interests in the  
437 manner described in section 47-226;

438 (12) Any restrictions (A) on alienation of the units, including any  
439 restrictions on leasing which exceed the restrictions on leasing units  
440 which executive boards may impose pursuant to subdivision (2) of  
441 subsection (c) of section 47-244, as amended by this act, and (B) on the  
442 amount for which a unit may be sold or on the amount that may be  
443 received by a unit owner on sale, condemnation or casualty loss to the  
444 unit or to the common interest community, or on termination of the  
445 common interest community;

446 (13) The recording data for recorded easements and licenses  
447 appurtenant to or included in the common interest community or to  
448 which any portion of the common interest community is or may  
449 become subject by virtue of a reservation in the declaration; [and]

450 (14) Any authorization pursuant to which the association may  
451 establish and enforce construction and design criteria and aesthetic  
452 standards as provided in section 47-248, as amended by this act, and  
453 section 31 of this act; and

454 [(14)] (15) All matters required by sections 47-225 to 47-228,

455 inclusive, sections 47-234 and 47-235, as amended by this act, and  
456 subsection (d) of section 47-245, as amended by this act.

457 (b) The declaration may contain any other matters not inconsistent  
458 with this chapter that the declarant considers appropriate, including  
459 any restrictions on the uses of a unit or the number or other  
460 qualifications of persons who may occupy units.

461 Sec. 12. Section 47-232 of the general statutes is repealed and the  
462 following is substituted in lieu thereof (*Effective October 1, 2009*):

463 (a) If the declaration expressly so permits, a unit may be subdivided  
464 into two or more units. Subject to the provisions of the declaration and  
465 any provisions of law, on application of a unit owner to subdivide a  
466 unit, the association shall prepare, execute and record an amendment  
467 to the declaration, including in a condominium or planned community  
468 the surveys and plans, subdividing that unit.

469 (b) The amendment to the declaration shall be executed by the  
470 owner of the unit to be subdivided, assign an identifying number to  
471 each unit created and reallocate the allocated interests formerly  
472 allocated to the subdivided unit to the new units in any reasonable  
473 manner prescribed by the owner of the subdivided unit or on any  
474 other basis the declaration requires.

475 Sec. 13. (NEW) (*Effective October 1, 2009*) To the extent that any unit  
476 or common element encroaches on any other unit or common element,  
477 a valid easement for the encroachment exists. The easement does not  
478 relieve a unit owner of liability in case of the unit owner's wilful  
479 misconduct nor relieve a declarant or any other person of liability for  
480 failure to adhere to any plats and plans or, in a cooperative, to any  
481 representation in the public offering statement.

482 Sec. 14. Section 47-235 of the general statutes is repealed and the  
483 following is substituted in lieu thereof (*Effective October 1, 2009*):

484 (a) Subject to the provisions of the declaration, a declarant has such

485 an easement through the common elements as may be reasonably  
486 necessary for the purpose of discharging the declarant's obligations or  
487 exercising special declarant rights, whether arising under this chapter  
488 or reserved in the declaration.

489 (b) [In a planned community, subject] Subject to the provisions of  
490 subdivision (6) of subsection (a) of section 47-244, as amended by this  
491 act, and section 47-254, the unit owners have an easement [(1)] in the  
492 common elements for [purposes of] access to their units. [and (2)]

493 (c) Subject to the declaration and rules, the unit owners have a right  
494 to use the common elements that are not limited common elements  
495 and all real property that must become common elements for [all  
496 other] the purposes for which they were intended.

497 Sec. 15. Section 47-236 of the general statutes is repealed and the  
498 following is substituted in lieu thereof (*Effective October 1, 2009*):

499 (a) Except in cases of amendments that may be executed by a  
500 declarant under subsection (f) of section 47-228 or section 47-229, or by  
501 the association under section 47-206, subsection (d) of section 47-225,  
502 subsection (c) of section 47-227, subsection (a) of section 47-231 or  
503 section 47-232, as amended by this act, or by certain unit owners under  
504 subsection (b) of section 47-227, subsection (a) of section 47-231,  
505 subsection (b) of section 47-232, as amended by this act, subsection (b)  
506 of section 47-237, as amended by this act, or section 47-242, and except  
507 as limited by subsections (d) and (f) of this section, the declaration,  
508 including any surveys and plans, may be amended only by vote or  
509 agreement of unit owners of units to which at least sixty-seven per cent  
510 of the votes in the association are allocated, or [any larger majority]  
511 unless the declaration specifies a different percentage for all  
512 amendments or for specific subjects of amendment. If the declaration  
513 requires the approval of another person as a condition of its  
514 effectiveness, the amendment is not valid without that approval. [The  
515 declaration may specify a smaller number only if all of the units are  
516 restricted exclusively to nonresidential use.]

517 (b) No action to challenge the validity of an amendment adopted by  
518 the association pursuant to this section may be brought more than one  
519 year after the amendment is recorded.

520 (c) Every amendment to the declaration shall be recorded in every  
521 town in which any portion of the common interest community is  
522 located and is effective only on recordation. An amendment, except an  
523 amendment pursuant to subsection (a) of section 47-231, shall be  
524 indexed in the grantee's index in the name of the common interest  
525 community and the association and in the grantor's index in the name  
526 of the parties executing the amendment.

527 (d) Except to the extent expressly permitted or required by other  
528 provisions of this chapter, no amendment may create or increase  
529 special declarant rights, increase the number of units or change the  
530 boundaries of any unit or the allocated interests of a unit, in the  
531 absence of unanimous consent of the unit owners.

532 (e) Amendments to the declaration required by this chapter to be  
533 recorded by the association shall be prepared, executed, recorded and  
534 certified on behalf of the association by any officer of the association  
535 designated for that purpose or, in the absence of designation, by the  
536 president of the association.

537 (f) [By vote or agreement of unit owners of units to which at least  
538 eighty per cent of the votes in the association are allocated, or any  
539 larger percentage specified in the declaration, an] An amendment to  
540 the declaration may prohibit or materially restrict the permitted uses  
541 or occupancy of a unit or the number or other qualifications of persons  
542 who may occupy units [~~. The~~] only by vote or agreement of unit  
543 owners of units to which at least eighty per cent of the votes in the  
544 association are allocated, unless the declaration specifies that a larger  
545 percentage of unit owners must vote or agree to that amendment or  
546 that such an amendment may be approved by the unit owners of units  
547 having at least eighty per cent of the votes of a specified group of units  
548 that would be affected by the amendment. An amendment approved

549 under this subsection must provide reasonable protection for a use or  
550 occupancy permitted at the time the amendment was adopted.

551 (g) The time limits specified in the declaration pursuant to  
552 subdivision (8) of subsection (a) of section 47-224, as amended by this  
553 act, within which reserved development rights must be exercised may  
554 be extended, the number of units may be increased and new  
555 development rights or other special declarant rights may be created by  
556 amendment to the declaration if persons entitled to cast at least eighty  
557 per cent of the votes in the association, including eighty per cent of the  
558 votes allocated to units not owned by the declarant, agree to that  
559 action. The amendment must identify the association or other persons  
560 who hold any new rights that are created. Written notice of the  
561 proposed amendment to the declaration must be delivered to all  
562 persons holding development rights or security interests in those  
563 rights. Notwithstanding the provisions of subsection (c) of this section,  
564 the amendment to the declaration is effective thirty days after the  
565 amendment is recorded and notice is delivered unless any of the  
566 persons entitled to notice under this subsection records a written  
567 objection within the thirty-day period, in which case the amendment is  
568 void, or unless all of the persons entitled to notice under this  
569 subsection consent in writing at the time the amendment is recorded,  
570 in which case the amendment is effective when recorded.

571 (h) Provisions in the declaration creating special declarant rights  
572 that have not expired may not be amended without the consent of the  
573 declarant.

574 (i) If any provision of this chapter or of the declaration of any  
575 common interest community subject to this chapter requires the  
576 consent of a person holding a security interest in a unit as a condition  
577 to the effectiveness of any amendment to the declaration, that consent  
578 shall be deemed granted if no written refusal to consent is received by  
579 the association within forty-five days after the association delivers  
580 notice of the proposed amendment to the holder of the interest or  
581 mails the notice to the holder of the interest by certified mail, return

582 receipt requested. The association may rely on the last-recorded  
583 security interest of record in delivering or mailing notice to the holder  
584 of that interest. Notwithstanding any provision of this section, an  
585 amendment to the declaration that affects the priority of a holder's  
586 security interest or the ability of that holder to foreclose its security  
587 interest may not be adopted without that holder's consent in a record if  
588 the declaration requires that consent as a condition to the effectiveness  
589 of the amendment.

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

598 (1) (A) Unit owners of units to which more than eighty per cent of  
599 the votes in the association are allocated vote for or agree to the  
600 proposed amendment;

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

602 (C) Notice of the proposed amendment is delivered to the unit  
603 owners holding the votes in the association that have not voted or  
604 agreed to the proposed amendment and no written objection of the  
605 proposed amendment is received by the association within thirty days  
606 after the association delivers notice; or

607 (2) Unit owners of units to which more than eighty per cent of the  
608 votes in the association are allocated vote for or agree to the proposed  
609 amendment but at least one unit owner objects to the proposed  
610 amendment and, pursuant to an action brought by the association in  
611 the Superior Court against all objecting unit owners, the court finds  
612 that the objecting unit owner or owners do not have a unique minority  
613 interest, different in kind from the interests of the other unit owners,

614 that the voting requirement of the declaration was intended to protect.

615 Sec. 16. Section 47-237 of the general statutes is repealed and the  
616 following is substituted in lieu thereof (*Effective October 1, 2009*):

617 (a) Except in the case of a taking of all the units by eminent domain,  
618 [or in the case of] foreclosure against an entire cooperative of a security  
619 interest that has priority over the declaration, or in the circumstances  
620 described in section 17 of this act, a common interest community may  
621 be terminated only by agreement of unit owners of units to which at  
622 least eighty per cent of the votes in the association are allocated, or any  
623 larger percentage the declaration specifies, and with any other  
624 approvals required by the declaration. The declaration may specify a  
625 smaller percentage only if all of the units are restricted exclusively to  
626 nonresidential uses.

627 (b) An agreement to terminate shall be evidenced by the execution  
628 of a termination agreement, or ratifications thereof, in the same  
629 manner as a deed, by the requisite number of unit owners. The  
630 termination agreement shall specify a date after which the agreement  
631 will be void unless it is recorded before that date. A termination  
632 agreement and all ratifications thereof shall be recorded in every town  
633 in which a portion of the common interest community is situated and  
634 is effective only on recordation.

635 (c) In the case of a condominium or planned community containing  
636 only units having horizontal boundaries described in the declaration, a  
637 termination agreement may provide that all of the common elements  
638 and units of the common interest community shall be sold following  
639 termination. If, pursuant to the agreement, any real property in the  
640 common interest community is to be sold following termination, the  
641 termination agreement shall set forth the minimum terms of the sale.

642 (d) In the case of a condominium or planned community containing  
643 any units not having horizontal boundaries described in the  
644 declaration, a termination agreement may provide for sale of the  
645 common elements, but it may not require that the units be sold

646 following termination, unless the declaration as originally recorded  
647 provided otherwise or all the unit owners consent to the sale.

648 (e) The association, on behalf of the unit owners, may contract for  
649 the sale of real property in a common interest community, but the  
650 contract is not binding on the unit owners until approved pursuant to  
651 subsections (a) and (b) of this section. If any real property is to be sold  
652 following termination, title to that real property, on termination, vests  
653 in the association as trustee for the holders of all interests in the units.  
654 Thereafter, the association has all powers necessary and appropriate to  
655 effect the sale. Until the sale has been concluded and the proceeds  
656 thereof distributed, the association continues in existence with all  
657 powers it had before termination. Proceeds of the sale shall be  
658 distributed to unit owners and lien holders, as their interests may  
659 appear, in accordance with subsections (h), (i) and (j) of this section.  
660 Unless otherwise specified in the termination agreement, as long as the  
661 association holds title to the real property, each unit owner and the  
662 unit owner's successors in interest have an exclusive right to  
663 occupancy of the portion of the real property that formerly constituted  
664 the unit. During the period of that occupancy, each unit owner and the  
665 unit owner's successors in interest remain liable for all assessments  
666 and other obligations imposed on unit owners by this chapter or the  
667 declaration.

668 (f) In a condominium or planned community, if the real property  
669 constituting the common interest community is not to be sold  
670 following termination, title to the common elements and, in a common  
671 interest community containing only units having horizontal  
672 boundaries described in the declaration, title to all the real property in  
673 the common interest community, vest in the unit owners on  
674 termination as tenants in common in proportion to their respective  
675 interests as provided in subsection (j) of this section, and liens on the  
676 units shift accordingly. While the tenancy in common exists, each unit  
677 owner and the unit owner's successors in interest have an exclusive  
678 right to occupancy of the portion of the real property that formerly  
679 constituted the unit.

680 (g) Following termination of the common interest community, the  
681 proceeds of any sale of real property, together with the assets of the  
682 association, are held by the association as trustee for unit owners and  
683 holders of liens on the units as their interests may appear.

684 (h) Following termination of a condominium or planned  
685 community, creditors of the association holding liens on the units,  
686 which were recorded before termination, may enforce those liens in the  
687 same manner as any lien holder. All other creditors of the association  
688 are to be treated as if they had perfected liens on the units immediately  
689 before termination.

690 (i) In a cooperative, the declaration may provide that all creditors of  
691 the association have priority over any interests of unit owners and  
692 creditors of unit owners. In that event, following termination, creditors  
693 of the association holding liens on the cooperative which were  
694 recorded before termination may enforce their liens in the same  
695 manner as any lien holder, and any other creditor of the association is  
696 to be treated as if he had perfected a lien against the cooperative  
697 immediately before termination. Unless the declaration provides that  
698 all creditors of the association have that priority:

699 (1) The lien of each creditor of the association which was perfected  
700 against the association before termination becomes, on termination, a  
701 lien against each unit owner's interest in the unit as of the date the lien  
702 was perfected;

703 (2) Any other creditor of the association is to be treated on  
704 termination as if the creditor had perfected a lien against each unit  
705 owner's interest immediately before termination;

706 (3) The amount of the lien of an association's creditor described in  
707 subdivisions (1) and (2) of this subsection against each of the unit  
708 owners' interest shall be proportionate to the ratio which each unit's  
709 common expense liability bears to the common expense liability of all  
710 of the units;

711 (4) The lien of each creditor of each unit owner which was perfected  
712 before termination continues as a lien against that unit owner's unit as  
713 of the date the lien was perfected; and

714 (5) The assets of the association shall be distributed to all unit  
715 owners and all lien holders as their interests may appear in the order  
716 described above. Creditors of the association are not entitled to  
717 payment from any unit owner in excess of the amount of the creditor's  
718 lien against that unit owner's interest.

719 (j) The respective interests of unit owners referred to in subsections  
720 (e), (f), (g), (h) and (i) of this section are as follows:

721 (1) Except as provided in subdivision (2) of this subsection, the  
722 respective interests of unit owners are the fair market values of their  
723 units, allocated interests and any limited common elements  
724 immediately before the termination, as determined by one or more  
725 independent appraisers selected by the association. The decision of the  
726 independent appraisers shall be distributed to the unit owners and  
727 becomes final unless disapproved within thirty days after distribution  
728 by unit owners of units to which twenty-five per cent of the votes in  
729 the association are allocated. The proportion of any unit owner's  
730 interest to that of all unit owners is determined by dividing the fair  
731 market value of that unit owner's unit and its allocated interests by the  
732 total fair market values of all the units and their allocated interests.

733 (2) If any unit or any limited common element is destroyed to the  
734 extent that an appraisal of the fair market value thereof before  
735 destruction cannot be made, the interests of all unit owners are their  
736 respective common expense liabilities immediately before the  
737 termination.

738 (k) In a condominium or planned community, except as provided in  
739 subsection (l) of this section, foreclosure or enforcement of a lien or  
740 encumbrance against the entire common interest community does not  
741 terminate, of itself, the common interest community, and foreclosure  
742 or enforcement of a lien or encumbrance against a portion of the

743 common interest community, other than withdrawable real property,  
744 does not withdraw that portion from the common interest community.  
745 Foreclosure or enforcement of a lien or encumbrance against  
746 withdrawable real property, or against common elements that have  
747 been subjected to a security interest by the association under section  
748 47-254, does not withdraw, of itself, that real property from the  
749 common interest community, but the person taking title thereto may  
750 require from the association, on request, an amendment excluding the  
751 real property from the common interest community.

752 (l) In a condominium or planned community, if a lien or  
753 encumbrance against a portion of the real property comprising the  
754 common interest community has priority over the declaration and the  
755 lien or encumbrance has not been partially released, the parties  
756 foreclosing the lien or encumbrance, on foreclosure, may record an  
757 instrument excluding the real property subject to that lien or  
758 encumbrance from the common interest community.

759 Sec. 17. (NEW) (*Effective October 1, 2009*) If substantially all the units  
760 in a common interest community have been destroyed or are  
761 uninhabitable and the available methods for giving notice under  
762 section 32 of this act of a meeting of unit owners to consider  
763 termination under section 47-237 of the general statutes, as amended  
764 by this act, will not likely result in receipt of the notice, the executive  
765 board or any other interested person may commence an action in the  
766 superior court seeking to terminate the common interest community.  
767 During the pendency of the action, the court may issue whatever  
768 orders it considers appropriate, including appointment of a receiver.  
769 After a hearing, the court may terminate the common interest  
770 community or reduce its size and may issue any other order the court  
771 considers to be in the best interest of the unit owners and persons  
772 holding an interest in the common interest community.

773 Sec. 18. Section 47-243 of the general statutes is repealed and the  
774 following is substituted in lieu thereof (*Effective October 1, 2009*):

775 A unit owners' association shall be organized no later than the date  
776 the first unit in the common interest community is conveyed. The  
777 membership of the association at all times shall consist exclusively of  
778 all unit owners or, following termination of the common interest  
779 community, of all former unit owners entitled to distributions of  
780 proceeds under section 47-237, as amended by this act, or their heirs,  
781 successors or assigns. The association shall have an executive board.  
782 The association shall be organized as a profit or nonprofit corporation,  
783 trust, limited liability company, partnership or [unincorporated  
784 association] any other form of organization authorized by the law of  
785 this state.

786 Sec. 19. Section 47-244 of the general statutes is repealed and the  
787 following is substituted in lieu thereof (*Effective October 1, 2009*):

788 (a) Except as provided in subsection (b) of this section, and subject  
789 to the provisions of the declaration, the association, even if  
790 unincorporated; [, may:]

791 (1) [Adopt] Shall adopt and may amend bylaws, and may adopt and  
792 amend rules; [and regulations;]

793 (2) [Adopt] Shall adopt and may amend budgets [for revenues,  
794 expenditures and reserves and] under section 34 of this act, may collect  
795 assessments for common expenses from unit owners and may invest  
796 funds of the association;

797 (3) [Hire] May hire and discharge managing agents and other  
798 employees, agents and independent contractors;

799 (4) [Institute] May institute, defend or intervene in litigation or in  
800 arbitration, mediation or administrative proceedings in its own name  
801 on behalf of itself or two or more unit owners on matters affecting the  
802 common interest community, subject to section 35 of this act;

803 (5) [Make] May make contracts and incur liabilities;

804 (6) [Regulate] May regulate the use, maintenance, repair,

805 replacement and modification of common elements;

806 (7) [Cause] May cause additional improvements to be made as a  
807 part of the common elements;

808 (8) [Acquire] May acquire, hold, encumber and convey in its own  
809 name any right, title or interest to real property or personal property,  
810 but (A) common elements in a condominium or planned community  
811 may be conveyed or subjected to a security interest only pursuant to  
812 section 47-254, and (B) part of a cooperative may be conveyed, or all or  
813 part of a cooperative may be subjected to a security interest, only  
814 pursuant to section 47-254;

815 (9) [Grant] May grant easements, leases, licenses and concessions  
816 through or over the common elements;

817 (10) [Impose] May impose and receive any payments, fees or  
818 charges for the use, rental or operation of the common elements, other  
819 than limited common elements described in subsections (2) and (4) of  
820 section 47-221, and for services provided to unit owners;

821 (11) [Impose] May impose charges or interest or both for late  
822 payment of assessments and, after notice and an opportunity to be  
823 heard, levy reasonable fines for violations of the declaration, bylaws,  
824 rules and regulations of the association;

825 (12) [Impose] May impose reasonable charges for the preparation  
826 and recordation of amendments to the declaration, resale certificates  
827 required by section 47-270 or statements of unpaid assessments;

828 (13) [Provide] May provide for the indemnification of its officers  
829 and executive board and maintain directors' and officers' liability  
830 insurance;

831 (14) [Assign] Except to the extent limited by the declaration, may  
832 assign its right to future income, including the right to receive common  
833 expense assessments; [, but only to the extent the declaration expressly  
834 so provides;]

835 (15) [Exercise] May exercise any other powers conferred by the  
836 declaration or bylaws;

837 (16) [Exercise] May exercise all other powers that may be exercised  
838 in this state by legal entities of the same type as the association;

839 (17) [Exercise] May exercise any other powers necessary and proper  
840 for the governance and operation of the association; [and]

841 (18) [Require] May require, by regulation, that disputes between the  
842 executive board and unit owners or between two or more unit owners  
843 regarding the common interest community must be submitted to  
844 nonbinding alternative dispute resolution in the manner described in  
845 the regulation as a prerequisite to commencement of a judicial  
846 proceeding; and

847 (19) May suspend any right or privilege of a unit owner who fails to  
848 pay an assessment, but may not:

849 (A) Deny a unit owner or other occupant access to the owner's unit;

850 (B) Suspend a unit owner's right to vote;

851 (C) Prevent a unit owner from seeking election as a director or  
852 officer of the association; or

853 (D) Withhold services provided to a unit or a unit owner by the  
854 association if the effect of withholding the service would be to  
855 endanger the health, safety or property of any person.

856 (b) The declaration may not [impose limitations on] limit the power  
857 of the association, beyond the limit authorized in subdivision (18) of  
858 subsection (a) of this section, to: [deal]

859 (1) Deal with the declarant [which are] if the limit is more restrictive  
860 than the [limitations] limit imposed on the power of the association to  
861 deal with other persons; or

862 (2) Institute litigation or an arbitration, mediation or administrative

863 proceeding against any person, subject to the following:

864 (A) The association shall comply with section 35 of this act, if  
865 applicable, before instituting any proceeding described in subsection  
866 (a) of section 35 of this act, in connection with construction defects; and

867 (B) The executive board promptly shall provide notice to the unit  
868 owners of any legal proceeding in which the association is a party  
869 other than proceedings involving enforcement of rules or to recover  
870 unpaid assessments or other sums due the association.

871 [(c) (1) Unless otherwise permitted by the declaration or this  
872 chapter, an association may adopt rules and regulations that affect the  
873 use or occupancy of units that may be used for residential purposes  
874 only to:

875 (A) Prevent any use of a unit which violates the declaration;

876 (B) Regulate any occupancy of a unit which violates the declaration  
877 or adversely affects the use and enjoyment of other units or the  
878 common elements by other unit owners; or

879 (C) Restrict the leasing of residential units to the extent those rules  
880 are reasonably designed to meet first mortgage underwriting  
881 requirements of institutional lenders who regularly purchase or insure  
882 first mortgages on units in common interest communities, provided no  
883 such restrictions shall be enforceable unless notice thereof is recorded  
884 on the land records of each town in which any part of the common  
885 interest community is located. Such notice shall be indexed in the  
886 grantor index of such land records in the name of the association.

887 (2) Except as provided in subdivision (1) of this subsection, the  
888 association may not regulate any use or occupancy of units.]

889 [(d)] (c) If a tenant of a unit owner violates the declaration, bylaws  
890 or rules and regulations of the association, in addition to exercising  
891 any of its powers against the unit owner, the association may:

892 (1) Exercise directly against the tenant the powers described in  
893 subdivision (11) of subsection (a) of this section;

894 (2) After giving notice to the tenant and the unit owner and an  
895 opportunity to be heard, levy reasonable fines against the tenant or  
896 unit owner, or both, for the violation; and

897 (3) Enforce any other rights against the tenant for the violation  
898 which the unit owner as landlord could lawfully have exercised under  
899 the lease, including any such right to bring a summary process action  
900 under chapter 832.

901 [(e)] (d) The rights [granted under] referred to subdivision (3) of  
902 subsection [(d)] (c) of this section may only be exercised if the tenant or  
903 unit owner fails to cure the violation within ten days after the  
904 association notifies the tenant and unit owner of that violation.

905 [(f)] (e) Unless a lease otherwise provides, this section does not:

906 (1) Affect rights that the unit owner has to enforce the lease or that  
907 the association has under other law; or

908 (2) Permit the association to enforce a lease to which it is not a party  
909 except to the extent that there is a violation of the declaration, bylaws  
910 or rules. [and regulations.]

911 (f) The executive board may determine whether to take enforcement  
912 action by exercising the association's power to impose sanctions or  
913 commencing an action for a violation of the declaration, bylaws and  
914 rules, including whether to compromise any claim for unpaid  
915 assessments or other claim made by or against it. The executive board  
916 does not have a duty to take enforcement action if it determines that,  
917 under the facts and circumstances presented:

918 (1) The association's legal position does not justify taking any or  
919 further enforcement action;

920 (2) The covenant, restriction or rule being enforced is, or is likely to

921 be construed as, inconsistent with law;

922 (3) Although a violation may exist or may have occurred, it is not so  
923 material as to be objectionable to a reasonable person or to justify  
924 expending the association's resources; or

925 (4) It is not in the association's best interests to pursue an  
926 enforcement action.

927 (g) The executive board's decision under subsection (f) of this  
928 section not to pursue enforcement under one set of circumstances does  
929 not prevent the executive board from taking enforcement action under  
930 another set of circumstances, except that the executive board may not  
931 be arbitrary or capricious in taking enforcement action.

932 (h) The executive board shall establish a reasonable method for unit  
933 owners to communicate among themselves and with the executive  
934 board on matters concerning the association.

935 Sec. 20. Section 47-245 of the general statutes is repealed and the  
936 following is substituted in lieu thereof (*Effective October 1, 2009*):

937 (a) Except as provided in the declaration, the bylaws, subsection (b)  
938 of this section [ ] or other provisions of this chapter, the executive  
939 board may act in all instances on behalf of the association. In the  
940 performance of their duties, officers and members of the executive  
941 board appointed by the declarant shall exercise the degree of care and  
942 loyalty to the association required of a trustee and officers and  
943 members of the executive board not appointed by a declarant shall  
944 exercise the degree of care and loyalty to the association required of an  
945 officer or director of a corporation organized under chapter 602, and  
946 are subject to the conflict of interest rules governing directors and  
947 officers under chapter 602. The standards of care and loyalty described  
948 in this section apply regardless of the form in which the association is  
949 organized.

950 (b) The executive board may not: [act on behalf of the association to

951 amend]

952 (1) Amend the declaration, [to terminate] except as provided in  
953 section 47-236, as amended by this act;

954 (2) Amend the bylaws;

955 (3) Terminate the common interest community; [or to elect]

956 (4) Elect members of the executive board, except that the executive  
957 board may fill vacancies in its membership for the unexpired portion  
958 of any term or, if earlier, until the next regularly scheduled election of  
959 executive board members; or [determine]

960 (5) Determine the qualifications, powers and duties, or terms of  
961 office of executive board members. [, but the executive board may fill  
962 vacancies in its membership for the unexpired portion of any term.]

963 [(c) Notwithstanding any provision of the declaration or bylaws to  
964 the contrary, within thirty days after adoption of any proposed budget  
965 for the common interest community, the executive board shall provide  
966 a summary of the proposed budget to all the unit owners and shall set  
967 a date for a meeting of the unit owners to consider ratification of the  
968 proposed budget not less than fourteen or more than thirty days after  
969 hand-delivery or mailing of the summary. At such meeting, or on a  
970 day prior to such meeting, the executive board shall provide a  
971 reasonable opportunity for all unit owners to express their views  
972 concerning the proposed budget before its ratification. At least one  
973 copy of the proposed budget shall be available for inspection at such  
974 meeting. Unless at such meeting a majority of all unit owners, or any  
975 larger vote specified in the declaration, reject the proposed budget, the  
976 budget is ratified, whether or not a quorum is present. In the event the  
977 proposed budget is rejected, the periodic budget last ratified by the  
978 unit owners shall be continued until such time as the unit owners  
979 ratify a subsequent budget proposed by the executive board as  
980 provided in this subsection.]

981        (c) The executive board shall adopt budgets as provided in section  
982        34 of this act.

983        (d) Subject to the provisions of subsection (e) of this section, the  
984        declaration may provide for a period of declarant control of the  
985        association, during which a declarant, or persons designated by [him]  
986        the declarant, may appoint and remove the officers and members of  
987        the executive board. Regardless of the period provided in the  
988        declaration, a period of declarant control terminates no later than the  
989        earlier of: (1) Sixty days after conveyance of sixty per cent of the units  
990        that may be created to unit owners other than a declarant, except that  
991        in the case of a master planned community, control terminates no later  
992        than sixty days after conveyance to unit owners other than the  
993        declarant of sixty per cent of the maximum number of units that may  
994        be built, if that number is specified, or, if no such number is specified,  
995        after conveyance to unit owners other than the declarant of three  
996        hundred units; (2) two years after all declarants have ceased to offer  
997        units for sale in the ordinary course of business; (3) two years after any  
998        right to add new units was last exercised; or (4) the date the declarant,  
999        after giving written notice to unit owners, records an instrument  
1000       voluntarily surrendering all rights to control activities of the  
1001       association. A declarant may voluntarily surrender the right to appoint  
1002       and remove officers and members of the executive board before  
1003       termination of that period, but in that event the declarant may require,  
1004       for the duration of the period of declarant control, that specified  
1005       actions of the association or executive board, as described in a  
1006       recorded instrument executed by the declarant, be approved by the  
1007       declarant before they become effective.

1008        (e) Not later than sixty days after conveyance of one-third of the  
1009        units that may be created to unit owners other than a declarant, at least  
1010        one member and not less than one-third of the members of the  
1011        executive board shall be elected by unit owners other than the  
1012        declarant.

1013        (f) Except as otherwise provided in subsection (e) of section 47-239,

1014 not later than the termination of any period of declarant control, the  
1015 unit owners shall elect an executive board of at least three members, at  
1016 least a majority of whom shall be unit owners. [The] Unless the  
1017 declaration provides for the election of officers by the unit owners, the  
1018 executive board shall elect the officers. The executive board members  
1019 and officers shall take office upon election.

1020 [(g) Notwithstanding any provision of the declaration or bylaws to  
1021 the contrary, the unit owners, by a two-thirds vote of all persons  
1022 present and entitled to vote at any meeting of the unit owners at which  
1023 a quorum is present, may remove any member of the executive board  
1024 with or without cause, other than a member appointed by the  
1025 declarant.]

1026 (g) A declaration may provide for the appointment of specified  
1027 positions on the executive board by persons other than the declarant  
1028 during or after the period of declarant control. A declaration may also  
1029 provide a method for filling vacancies in such specified positions,  
1030 other than by election by the unit owners, except that, after the period  
1031 of declarant control, appointed members (1) may not comprise more  
1032 than one-third of the board, and (2) have no greater authority than any  
1033 other member of the board.

1034 (h) Within thirty days after unit owners other than the declarant  
1035 elect a majority of the members of the executive board, the declarant  
1036 shall deliver to the association all property of the unit owners and of  
1037 the association held by or controlled by the declarant, including  
1038 without limitation the following items: (1) The original or a certified  
1039 copy of the recorded declaration as amended; the association articles of  
1040 incorporation, if the association is incorporated; bylaws; minute books  
1041 and other books and records of the association; and any rules and  
1042 regulations which may have been promulgated; (2) an accounting for  
1043 association funds and financial statements, from the date the  
1044 association received funds and ending on the date the period of  
1045 declarant control ends. The financial statements shall be audited by an  
1046 independent certified public accountant and shall be accompanied by

1047 the accountant's letter, expressing either (A) the opinion that the  
1048 financial statements present fairly the financial position of the  
1049 association in conformity with generally accepted accounting  
1050 principles or (B) a disclaimer of the accountant's ability to attest to the  
1051 fairness of the presentation of the financial information in conformity  
1052 with generally accepted accounting principles, and the reasons  
1053 therefor. The expense of the audit shall not be paid for or charged to  
1054 the association; (3) association funds or control thereof; (4) all of  
1055 declarant's tangible personal property that has been represented by the  
1056 declarant to be the property of the association or, unless the declarant  
1057 has disclosed in the public offering statement that all such personal  
1058 property used in the common interest community will remain the  
1059 declarant's property, all of the declarant's tangible personal property  
1060 that is necessary for, and has been used exclusively in, the operation  
1061 and enjoyment of the common elements, and inventories of these  
1062 properties; (5) a copy of any plans and specifications used in the  
1063 construction of the improvements in the common interest community  
1064 which were completed within two years before the declaration was  
1065 recorded; (6) all insurance policies then in force, in which the unit  
1066 owners, the association or its directors and officers are named as  
1067 insured persons; (7) copies of any certificates of occupancy that may  
1068 have been issued with respect to any improvements comprising the  
1069 common interest community; (8) any other permits issued by  
1070 governmental bodies applicable to the common interest community  
1071 and which are currently in force or which were issued within one year  
1072 prior to the date on which unit owners other than the declarant took  
1073 control of the association; (9) written warranties of the contractor,  
1074 subcontractors, suppliers and manufacturers that are still effective; (10)  
1075 a roster of unit owners and mortgagees and their addresses and  
1076 telephone numbers, if known, as shown on the declarant's records; (11)  
1077 employment contracts in which the association is a contracting party;  
1078 and (12) any service contract in which the association is a contracting  
1079 party or in which the association or the unit owners have any  
1080 obligation to pay a fee to the persons performing the services.

1081 (i) During the period of declarant control, the declarant shall, at  
1082 least every six months, provide the unit owners with a current  
1083 financial statement of the association. The statement shall be on a cash  
1084 basis and need not be audited by an independent accountant. It shall  
1085 include, without limitation, (1) all income and expenses for the  
1086 calendar year to date; (2) all accounts payable and receivable,  
1087 including the ages of those accounts and showing all sums due to and  
1088 from the declarant and affiliates of the declarant; (3) the amount of any  
1089 funded replacement reserves; and (4) the balance of any other funds of  
1090 the association.

1091 Sec. 21. Section 47-247 of the general statutes is repealed and the  
1092 following is substituted in lieu thereof (*Effective October 1, 2009*):

1093 (a) [Except in the case of nonresidential common interest  
1094 communities as provided in section 47-215, if entered into before]  
1095 Within two years after the executive board elected by the unit owners  
1096 pursuant to subsection (f) of section 47-245, as amended by this act,  
1097 takes office, the association may terminate without penalty upon not  
1098 less than ninety days' notice to the other party, any of the following if  
1099 it was entered into before the executive board was elected: (1) [any]  
1100 Any management, [contract,] maintenance, operations or employment  
1101 contract or lease of recreational or parking areas or facilities; [,] or (2)  
1102 any other contract or lease between the association and a declarant or  
1103 an affiliate of a declarant. [, or (3)]

1104 (b) The association may terminate without penalty, at any time after  
1105 the executive board elected by the unit owners pursuant to subsection  
1106 (f) of section 47-245, as amended by this act, takes office upon not less  
1107 than ninety days' notice to the other party, any contract or lease that is  
1108 not bona fide or was unconscionable or commercially unreasonable to  
1109 the unit owners at the time entered into. [under the circumstances then  
1110 prevailing, may be terminated without penalty by the association at  
1111 any time after the executive board elected by the unit owners pursuant  
1112 to subsection (f) of section 47-245 takes office on not less than ninety  
1113 days' notice to the other party.]

1114 [(b)] (c) This section does not apply to: (1) Any lease the termination  
1115 of which would terminate the common interest community or reduce  
1116 its size, unless the real property subject to that lease was included in  
1117 the common interest community for the purpose of avoiding the right  
1118 of the association to terminate a lease under this section, or (2) a  
1119 proprietary lease.

1120 Sec. 22. Section 47-248 of the general statutes is repealed and the  
1121 following is substituted in lieu thereof (*Effective October 1, 2009*):

1122 (a) The bylaws of the association shall: [provide for: (1) The] (1)  
1123 Provide the number of members of the executive board and the titles of  
1124 the officers of the association; (2) provide for election by the executive  
1125 board of a president, treasurer, secretary and any other officers of the  
1126 association the bylaws specify; (3) specify the qualifications, powers  
1127 and duties, terms of office and manner of electing and removing  
1128 executive board members and officers and filling vacancies; (4) [which,  
1129 if any, of its] specify the powers the executive board or officers may  
1130 delegate to other persons or to a managing agent; (5) [which of its]  
1131 specify the officers who may prepare, execute, certify and record  
1132 amendments to the declaration on behalf of the association; [and] (6)  
1133 specify a method for [amending] the unit owners to amend the bylaws;  
1134 (7) contain any provision necessary to satisfy requirements in this  
1135 chapter or the declaration concerning meetings, voting, quorums and  
1136 other activities of the association; and (8) provide for any matter  
1137 required by the law of this state other than this chapter to appear in the  
1138 bylaws of organizations of the same type as the association.

1139 (b) Subject to the [provisions of the] declaration and this chapter, the  
1140 bylaws may provide for any other necessary or appropriate matters  
1141 [the association deems necessary and appropriate] including matters  
1142 that could be adopted as rules.

1143 Sec. 23. Section 47-250 of the general statutes is repealed and the  
1144 following is substituted in lieu thereof (*Effective October 1, 2009*):

1145 [A meeting of the association shall be held at least once each year.

1146 Special meetings of the association may be called by the president,] (a)  
1147 The following requirements apply to unit owner meetings: (1) An  
1148 association shall hold a meeting of unit owners annually at a time, date  
1149 and place stated in or fixed in accordance with the bylaws; (2) an  
1150 association shall hold a special meeting of unit owners to address any  
1151 matter affecting the common interest community or the association if  
1152 its president, a majority of the executive board, or [by] unit owners  
1153 having at least twenty per cent, or any lower percentage specified in  
1154 the bylaws, of the votes in the association request that the secretary call  
1155 the meeting. [Not less than ten nor more than sixty days in advance of  
1156 any meeting, the secretary or other officer specified in the bylaws shall  
1157 cause notice to be hand-delivered or sent prepaid by United States  
1158 mail to the mailing address of each unit or to any other mailing  
1159 address designated in writing by the unit owner.] If the association  
1160 does not notify unit owners of a special meeting within thirty days  
1161 after the requisite number or percentage of unit owners request the  
1162 secretary to do so, the requesting unit owners may directly notify all  
1163 the unit owners of the meeting. Only matters described in the meeting  
1164 notice required by subdivision (3) of this subsection may be considered  
1165 at a special meeting; (3) an association shall notify unit owners of the  
1166 time, date and place of each annual and special unit owners meeting  
1167 not less than ten days or more than sixty days before the meeting date.  
1168 Notice may be by any means described in section 32 of this act. The  
1169 notice of any meeting shall state the time, date and place of the  
1170 meeting and the items on the agenda, including (A) a statement of the  
1171 general nature of any proposed amendment to the declaration or  
1172 bylaws, (B) any budget changes, and (C) any proposal to remove an  
1173 officer or member of the executive board; (4) the minimum time to give  
1174 notice required by subdivision (3) of this subsection may be reduced or  
1175 waived for a meeting called to deal with an emergency; (5) unit owners  
1176 shall be given a reasonable opportunity at any meeting to comment  
1177 regarding any matter affecting the common interest community or the  
1178 association; and (6) the declaration or bylaws may allow for meetings  
1179 of unit owners to be conducted by telephonic, video or other  
1180 conferencing process if the alternative process is consistent with

1181 subdivision (7) of subsection (b) of this section.

1182 (b) The following requirements apply to meetings of the executive  
1183 board and committees of the association authorized to act for the  
1184 association:

1185 (1) Meetings shall be open to the unit owners except during  
1186 executive sessions. The executive board and those committees may  
1187 hold an executive session only during a regular or special meeting of  
1188 the board or a committee. No final vote or action may be taken during  
1189 an executive session. An executive session may be held only to: (A)  
1190 Consult with the association's attorney concerning legal matters; (B)  
1191 discuss existing or potential litigation or mediation, arbitration or  
1192 administrative proceedings; (C) discuss labor or personnel matters; (D)  
1193 discuss contracts, leases and other commercial transactions to purchase  
1194 or provide goods or services currently being negotiated, including the  
1195 review of bids or proposals, if premature general knowledge of those  
1196 matters would place the association at a disadvantage; or (E) prevent  
1197 public knowledge of the matter to be discussed if the executive board  
1198 or committee determines that public knowledge would violate the  
1199 privacy of any person.

1200 (2) For purposes of this section, a gathering of board members at  
1201 which the board members do not conduct association business is not a  
1202 meeting of the executive board. The executive board and its members  
1203 may not use incidental or social gatherings of board members or any  
1204 other method to evade the open meeting requirements of this section.

1205 (3) During the period of declarant control, the executive board shall  
1206 meet at least four times a year. At least one of those meetings shall be  
1207 held at the common interest community or at a place convenient to the  
1208 community. After termination of the period of declarant control, all  
1209 executive board meetings shall be at the common interest community  
1210 or at a place convenient to the community unless the unit owners  
1211 amend the bylaws to vary the location of those meetings.

1212 (4) At each executive board meeting, the executive board shall

1213 provide a reasonable opportunity for unit owners to comment  
1214 regarding any matter affecting the common interest community and  
1215 the association.

1216 (5) Unless the meeting is included in a schedule given to the unit  
1217 owners or the meeting is called to deal with an emergency, the  
1218 secretary or other officer specified in the bylaws shall give notice of  
1219 each executive board meeting to each board member and to the unit  
1220 owners. The notice shall be given at least ten days before the meeting  
1221 and shall state the time, date, place and agenda of the meeting.

1222 (6) If any materials are distributed to the executive board before the  
1223 meeting, the executive board at the same time shall make copies of  
1224 those materials reasonably available to unit owners, except that the  
1225 board need not make available copies of unapproved minutes or  
1226 materials that are to be considered in executive session.

1227 (7) Unless the declaration or bylaws otherwise provide, the  
1228 executive board may meet by telephonic, video or other conferencing  
1229 process if (A) the meeting notice states the conferencing process to be  
1230 used and provides information explaining how unit owners may  
1231 participate in the conference directly or by meeting at a central location  
1232 or conference connection; and (B) the process provides all unit owners  
1233 the opportunity to hear or perceive the discussion and offer comments  
1234 as provided in subdivision (4) of this subsection.

1235 (8) After termination of the period of declarant control, unit owners  
1236 may amend the bylaws to vary the procedures for meetings and  
1237 conference calls described in subdivision (7) of this subsection.

1238 (9) Instead of meeting, the executive board may act by unanimous  
1239 consent as documented in a record authenticated by all its members.  
1240 The secretary promptly shall give notice to all unit owners of any  
1241 action taken by unanimous consent. After termination of the period of  
1242 declarant control, the executive board may act by unanimous consent  
1243 only to undertake ministerial actions or to implement actions  
1244 previously taken at a meeting of the executive board.

1245 (10) Even if an action by the executive board is not in compliance  
1246 with this section, it is valid unless set aside by a court. A challenge to  
1247 the validity of an action of the executive board for failure to comply  
1248 with this section may not be brought more than sixty days after the  
1249 minutes of the executive board of the meeting at which the action was  
1250 taken are approved or the record of that action is distributed to unit  
1251 owners, whichever is later.

1252 Sec. 24. Section 47-251 of the general statutes is repealed and the  
1253 following is substituted in lieu thereof (*Effective October 1, 2009*):

1254 (a) Unless the bylaws otherwise provide, [otherwise,] a quorum is  
1255 present throughout any meeting of the [association] unit owners if  
1256 persons entitled to cast twenty per cent of the votes [that may be cast  
1257 for election of the executive board are] in the association:

1258 (1) Are present in person or by proxy at the beginning of the  
1259 meeting;

1260 (2) Have cast absentee ballots solicited in accordance with  
1261 subdivision (4) of subsection (c) of section 47-252, as amended by this  
1262 act, which have been delivered to the secretary in a timely manner; or

1263 (3) Are present by any combination of subdivision (1) or (2) of this  
1264 subsection.

1265 (b) Unless the bylaws specify a larger [percentage] number, a  
1266 quorum of the executive board is [deemed] present [throughout any]  
1267 for purposes of determining the validity of any action taken at a  
1268 meeting of the executive board only if [persons] individuals entitled to  
1269 cast [fifty per cent] a majority of the votes on that board are present at  
1270 the [beginning of the meeting] time a vote regarding that action is  
1271 taken. If a quorum is present when a vote is taken, the affirmative vote  
1272 of a majority of the board members present is the act of the executive  
1273 board unless a greater vote is required by the declaration or bylaws.

1274 (c) Except as otherwise provided in the bylaws, meetings of the

1275 association must be conducted in accordance with the most recent  
1276 edition of Roberts' Rules of Order Newly Revised.

1277 Sec. 25. Section 47-252 of the general statutes is repealed and the  
1278 following is substituted in lieu thereof (*Effective October 1, 2009*):

1279 (a) Unless prohibited or limited by the declaration or bylaws, unit  
1280 owners may vote at a meeting in person, by absentee ballot pursuant  
1281 to subdivision (4) of subsection (b) of this section, by a proxy pursuant  
1282 to subsection (c) of this section or, when a vote is conducted without a  
1283 meeting, by electronic or paper ballot pursuant to subsection (d) of this  
1284 section.

1285 (b) At a meeting of unit owners the following requirements apply:

1286 (1) Unit owners who are present in person may vote by voice vote,  
1287 show of hands, standing or any other method for determining the  
1288 votes of unit owners, as designated by the person presiding at the  
1289 meeting.

1290 (2) If only one of several owners of a unit is present, [at a meeting of  
1291 the association,] that owner is entitled to cast all the votes allocated to  
1292 that unit. If more than one of the owners are present, the votes  
1293 allocated to that unit may be cast only in accordance with the  
1294 agreement of a majority in interest of the owners, unless the  
1295 declaration expressly provides otherwise. There is majority agreement  
1296 if any one of the owners casts the votes allocated to [that] the unit  
1297 without protest being made promptly to the person presiding over the  
1298 meeting by any of the other owners of the unit.

1299 [(b)] (3) Unless a greater number or fraction of the votes in the  
1300 association is required by this chapter or the declaration, a majority of  
1301 the votes cast determines the outcome of any action of the association.

1302 (4) Subject to subsection (a) of this section, a unit owner may vote by  
1303 absentee ballot without being present at the meeting. The association  
1304 promptly shall deliver an absentee ballot to a unit owner who requests

1305 it if the request is made at least three days before the scheduled  
1306 meeting. Votes cast by absentee ballot must be included in the tally of  
1307 a vote taken at that meeting.

1308 (5) When a unit owner votes by absentee ballot, the association must  
1309 be able to verify that the ballot is cast by the unit owner having the  
1310 right to do so.

1311 (c) Except as otherwise provided in the declaration or bylaws, the  
1312 following requirements apply with respect to proxy voting: (1) Votes  
1313 allocated to a unit may be cast pursuant to a directed or undirected  
1314 proxy duly executed by a unit owner; [ If] (2) if a unit is owned by  
1315 more than one person, each owner of the unit may vote or register  
1316 protest to the casting of votes by the other owners of the unit through a  
1317 duly executed proxy; [ A] (3) a unit owner may revoke a proxy given  
1318 pursuant to this section only by actual notice of revocation to the  
1319 person presiding over a meeting of the association; [ A] (4) a proxy is  
1320 void if it is not dated or purports to be revocable without notice; [ A]  
1321 (5) a proxy terminates one year after its date, unless it specifies a  
1322 shorter term; and (6) a person may not cast undirected proxies  
1323 representing more than fifteen per cent of the votes in the association.

1324 (d) Unless prohibited or limited by the declaration or bylaws, an  
1325 association may conduct a vote without a meeting. In that event, the  
1326 following requirements apply:

1327 (1) The association shall notify the unit owners that the vote will be  
1328 taken by ballot;

1329 (2) The association shall deliver a paper or electronic ballot to every  
1330 unit owner entitled to vote on the matter;

1331 (3) The ballot must set forth each proposed action and provide an  
1332 opportunity to vote for or against the action;

1333 (4) When the association delivers the ballots, it shall also: (A)  
1334 Indicate the number of responses needed to meet the quorum

1335 requirement; (B) state the percentage of votes necessary to approve  
1336 each matter other than election of directors; (C) specify the time and  
1337 date by which a ballot must be delivered to the association to be  
1338 counted, which date may not be fewer than three days after the date  
1339 the association delivers the ballot; and (D) describe the time, date and  
1340 manner by which unit owners wishing to deliver information to all  
1341 unit owners regarding the subject of the vote may do so;

1342 (5) Except as otherwise provided in the declaration or bylaws, a  
1343 ballot is not revoked after delivery to the association by death or  
1344 disability or attempted revocation by the person that cast that vote;  
1345 and

1346 (6) Approval by ballot pursuant to this subsection is valid only if the  
1347 number of votes cast by ballot equals or exceeds the quorum required  
1348 to be present at a meeting authorizing the action.

1349 [(c)] (e) If the declaration requires that votes on specified matters  
1350 affecting the common interest community be cast by lessees rather  
1351 than unit owners of leased units: (1) [The provisions of subsections (a)  
1352 and (b) of this] This section [apply] applies to lessees as if they were  
1353 unit owners; (2) unit owners [who] that have leased their units to other  
1354 persons may not cast votes on those specified matters; and (3) lessees  
1355 are entitled to notice of meetings, access to records and other rights  
1356 respecting those matters as if they were unit owners.

1357 (f) Unit owners shall also be given notice [, in the manner provided  
1358 in section 47-250,] of all meetings at which lessees are entitled to vote.

1359 [(d)] (g) [No votes] Votes allocated to a unit owned by the  
1360 association [may] shall be cast in any vote of the unit owners in the  
1361 same proportion as the votes cast on the matter by unit owners other  
1362 than the association.

1363 Sec. 26. Section 47-255 of the general statutes is repealed and the  
1364 following is substituted in lieu thereof (*Effective October 1, 2009*):

1365 (a) Commencing not later than the time of the first conveyance of a  
1366 unit to a person other than a declarant, the association shall maintain,  
1367 to the extent reasonably available and subject to reasonable  
1368 deductibles: (1) Property insurance on the common elements and, in a  
1369 planned community, also on property that must become common  
1370 elements, insuring against [all] risks of direct physical loss commonly  
1371 insured against, [or, in the case of a conversion building, against fire  
1372 and extended coverage perils. The total amount of] which insurance,  
1373 after application of any deductibles shall be not less than eighty per  
1374 cent of the actual cash value of the insured property at the time the  
1375 insurance is purchased and at each renewal date, exclusive of land,  
1376 excavations, foundations and other items normally excluded from  
1377 property policies; (2) flood insurance in the event the condominium is  
1378 located in a flood hazard area, as defined and determined by the  
1379 National Flood Insurance Act, as amended, USC 42 Section 4101, P.L.  
1380 93-234, and the unit owners by vote direct; [and] (3) commercial  
1381 general liability insurance, including medical payments insurance, in  
1382 an amount determined by the executive board but not less than any  
1383 amount specified in the declaration, covering all occurrences  
1384 commonly insured against for [death,] bodily injury and property  
1385 damage arising out of or in connection with the use, ownership or  
1386 maintenance of the common elements and, in cooperatives, also of all  
1387 units; and (4) fidelity insurance.

1388 (b) In the case of a building [that is part of a cooperative or] that  
1389 contains units [having] divided by horizontal boundaries described in  
1390 the declaration, or vertical boundaries that comprise common walls  
1391 between units, the insurance maintained under subdivision (1) of  
1392 subsection (a) of this section, to the extent reasonably available, shall  
1393 include the units, but need not include improvements and betterments  
1394 installed by unit owners.

1395 (c) If the insurance described in subsections (a) and (b) of this  
1396 section is not reasonably available, the association promptly shall  
1397 cause notice of that fact to be [hand-delivered or sent prepaid by  
1398 United States mail] given to all unit owners. The declaration may

1399 require the association to carry any other insurance, and the  
1400 association [in any event] may carry any other insurance it considers  
1401 appropriate to protect the association or the unit owners.

1402 (d) Insurance policies carried pursuant to subsections (a) and (b) of  
1403 this section shall provide that: (1) Each unit owner is an insured person  
1404 under the policy with respect to liability arising out of his interest in  
1405 the common elements or membership in the association; (2) the insurer  
1406 waives its right to subrogation under the policy against any unit owner  
1407 or member of his household; (3) no act or omission by any unit owner,  
1408 unless acting within the scope of his authority on behalf of the  
1409 association, will void the policy or be a condition to recovery under the  
1410 policy; and (4) if, at the time of a loss under the policy, there is other  
1411 insurance in the name of a unit owner covering the same risk covered  
1412 by the policy, the association's policy provides primary insurance.

1413 (e) Any loss covered by the property policy under subdivision (1) of  
1414 subsection (a) and subsection (b) of this section shall be adjusted with  
1415 the association, but the insurance proceeds for that loss are payable to  
1416 any insurance trustee designated for that purpose, or otherwise to the  
1417 association, and not to any holder of a security interest. The insurance  
1418 trustee or the association shall hold any insurance proceeds in trust for  
1419 the association, unit owners and lien holders as their interests may  
1420 appear. Subject to the provisions of subsection (h) of this section, the  
1421 proceeds shall be disbursed first for the repair or [restoration]  
1422 replacement of the damaged property, and the association, unit  
1423 owners and lien holders are not entitled to receive payment of any  
1424 portion of the proceeds unless there is a surplus of proceeds after the  
1425 property has been completely repaired or [restored] replaced, or the  
1426 common interest community is terminated.

1427 (f) An insurance policy issued to the association does not prevent a  
1428 unit owner from obtaining insurance for his own benefit.

1429 (g) An insurer that has issued an insurance policy under this section  
1430 shall issue certificates or memoranda of insurance to the association

1431 and, on written request, to any unit owner or holder of a security  
1432 interest. The insurer issuing the policy may not cancel or refuse to  
1433 renew it until sixty days after notice of the proposed cancellation or  
1434 nonrenewal has been mailed to the association, each unit owner and  
1435 each holder of a security interest to whom a certificate or  
1436 memorandum of insurance has been issued at their respective last  
1437 known addresses.

1438 (h) (1) Any portion of the common interest community for which  
1439 insurance is required under this section which is damaged or  
1440 destroyed shall be repaired or replaced promptly by the association  
1441 unless (A) the common interest community is terminated, in which  
1442 case section 47-237, as amended by this act, applies, (B) repair or  
1443 replacement would be illegal under any state or local statute or  
1444 ordinance governing health or safety, or (C) eighty per cent of the unit  
1445 owners, including every owner of a unit or assigned limited common  
1446 element that will not be rebuilt, vote not to rebuild. The cost of repair  
1447 or replacement in excess of insurance proceeds, deductibles and  
1448 reserves, regardless of whether such excess is the result of the  
1449 application of a deductible under insurance coverage, is a common  
1450 expense. (2) If the entire common interest community is not repaired or  
1451 replaced, (A) the insurance proceeds attributable to the damaged  
1452 common elements shall be used to restore the damaged area to a  
1453 condition compatible with the remainder of the common interest  
1454 community, and (B) except to the extent that other persons will be  
1455 distributees, (i) the insurance proceeds attributable to units and limited  
1456 common elements that are not rebuilt shall be distributed to the  
1457 owners of those units and the owners of the units to which those  
1458 limited common elements were allocated, or to lien holders, as their  
1459 interests may appear, and (ii) the remainder of the proceeds shall be  
1460 distributed to all the unit owners or lien holders, as their interests may  
1461 appear, in proportion to the common expense liabilities of all the units.  
1462 (3) If the unit owners vote not to rebuild any unit, that unit's allocated  
1463 interests are automatically reallocated on the vote as if the unit had  
1464 been condemned under subsection (a) of section 47-206, and the

1465 association promptly shall prepare, execute and record an amendment  
1466 to the declaration reflecting the reallocations.

1467 (i) The provisions of this section may be varied or waived in the case  
1468 of a common interest community all of whose units are restricted to  
1469 nonresidential use.

1470 Sec. 27. Section 47-256 of the general statutes is repealed and the  
1471 following is substituted in lieu thereof (*Effective October 1, 2009*):

1472 Unless otherwise provided in the declaration, any surplus funds of  
1473 the association remaining after payment of or provision for common  
1474 expenses and any prepayment of reserves shall be paid annually to the  
1475 unit owners in proportion to their common expense liabilities or  
1476 credited to them to reduce their future common expense assessments.

1477 Sec. 28. Section 47-257 of the general statutes is repealed and the  
1478 following is substituted in lieu thereof (*Effective October 1, 2009*):

1479 (a) Until the association makes a common expense assessment, the  
1480 declarant shall pay all common expenses. After an assessment has  
1481 been made by the association, assessments shall be made at least  
1482 annually, based on a budget adopted at least annually by the  
1483 association.

1484 (b) Except for assessments under subsections (c), (d) and (e) of this  
1485 section, or as otherwise provided in this chapter, all common expenses  
1486 shall be assessed against all the units in accordance with the allocations  
1487 set forth in the declaration pursuant to subsections (a) and (b) of  
1488 section 47-226. [Any] The association may charge interest on any past  
1489 due [common expense] assessment or [installment] portion thereof  
1490 [bears interest] at the rate established by the association, not exceeding  
1491 eighteen per cent per year.

1492 (c) To the extent required by the declaration: (1) Any common  
1493 expense associated with the maintenance, repair or replacement of a  
1494 limited common element shall be assessed against the units to which

1495 that limited common element is assigned, equally, or in any other  
1496 proportion the declaration provides; (2) any common expense or  
1497 portion thereof benefiting fewer than all of the units [shall] or their  
1498 owners may be assessed exclusively against the units benefited; and (3)  
1499 the costs of insurance shall be assessed in proportion to risk and the  
1500 costs of utilities shall be assessed in proportion to usage.

1501 (d) Assessments to pay a judgment against the association may be  
1502 made only against the units in the common interest community at the  
1503 time the judgment was rendered, in proportion to their common  
1504 expense liabilities.

1505 (e) If damage to a unit or other part of the common interest  
1506 community, or if any other common expense is caused by the wilful  
1507 misconduct or gross negligence of any unit owner or a guest or invitee  
1508 of a unit owner, the association may, after notice and hearing, assess  
1509 that expense exclusively against [his unit] that owner's unit, even if the  
1510 association maintains insurance with respect to that damage or  
1511 common expense.

1512 (f) If common expense liabilities are reallocated, common expense  
1513 assessments and any installment thereof not yet due shall be  
1514 recalculated in accordance with the reallocated common expense  
1515 liabilities.

1516 (g) No unit owner may exempt himself from liability for payment of  
1517 the common expenses by waiver of the use or enjoyment of any of the  
1518 common elements or by abandonment of the unit against which the  
1519 assessments are made.

1520 Sec. 29. Section 47-258 of the general statutes is repealed and the  
1521 following is substituted in lieu thereof (*Effective October 1, 2009*):

1522 (a) The association has a statutory lien on a unit for any assessment  
1523 [levied against] attributable to that unit or fines imposed against its  
1524 unit owner. Unless the declaration otherwise provides, reasonable  
1525 attorneys' fees and costs, other fees, charges, late charges, fines and

1526 interest charged pursuant to subdivisions (10), (11) and (12) of  
1527 subsection (a) of section 47-244, as amended by this act, and any other  
1528 sums due to the association under the declaration, this chapter, or as a  
1529 result of an administrative, arbitration, mediation or judicial decision  
1530 are enforceable in the same manner as unpaid assessments under this  
1531 section. If an assessment is payable in installments, the full amount of  
1532 the assessment is a lien from the time the first installment thereof  
1533 becomes due.

1534 (b) A lien under this section is prior to all other liens and  
1535 encumbrances on a unit except (1) liens and encumbrances recorded  
1536 before the recordation of the declaration and, in a cooperative, liens  
1537 and encumbrances which the association creates, assumes or takes  
1538 subject to, (2) a first or second security interest on the unit recorded  
1539 before the date on which the assessment sought to be enforced became  
1540 delinquent, or, in a cooperative, a first or second security interest  
1541 encumbering only the unit owner's interest and perfected before the  
1542 date on which the assessment sought to be enforced became  
1543 delinquent, and (3) liens for real property taxes and other  
1544 governmental assessments or charges against the unit or cooperative.  
1545 The lien is also prior to all security interests described in subdivision  
1546 (2) of this subsection to the extent of (A) an amount equal to the  
1547 common expense assessments based on the periodic budget adopted  
1548 by the association pursuant to subsection (a) of section 47-257, as  
1549 amended by this act, which would have become due in the absence of  
1550 acceleration during the six months immediately preceding institution  
1551 of an action to enforce either the association's lien or a security interest  
1552 described in subdivision (2) of this subsection and (B) the association's  
1553 costs and attorney's fees in enforcing its lien. A lien for any assessment  
1554 or fine specified in subsection (a) of this section shall have the priority  
1555 provided for in this subsection in an amount not to exceed the amount  
1556 specified in subparagraph (A) of this subsection. This subsection does  
1557 not affect the priority of mechanics' or materialmen's liens or the  
1558 priority of liens for other assessments made by the association.

1559 (c) Unless the declaration otherwise provides, if two or more

1560 associations have liens for assessments created at any time on the same  
1561 property, those liens have equal priority.

1562 (d) Recording of the declaration constitutes record notice and  
1563 perfection of the lien. No further recordation of any claim of lien for  
1564 assessment under this section is required.

1565 (e) A lien for unpaid assessments is extinguished unless  
1566 proceedings to enforce the lien are instituted within [two] three years  
1567 after the full amount of the assessments becomes due; provided, that if  
1568 an owner of a unit subject to a lien under this section files a petition for  
1569 relief under the United States Bankruptcy Code, the period of time for  
1570 instituting proceedings to enforce the association's lien shall be tolled  
1571 until thirty days after the automatic stay of proceedings under Section  
1572 362 of the Bankruptcy Code is lifted.

1573 (f) This section does not prohibit actions against unit owners to  
1574 recover sums for which subsection (a) of this section creates a lien or  
1575 prohibit an association from taking a deed in lieu of foreclosure.

1576 (g) A judgment or decree in any action brought under this section  
1577 shall include costs and reasonable attorney's fees for the prevailing  
1578 party.

1579 (h) The association on written request shall furnish to a unit owner a  
1580 statement in recordable form setting forth the amount of unpaid  
1581 assessments against the unit. The statement shall be furnished within  
1582 ten business days after receipt of the request and is binding on the  
1583 association, the executive board and every unit owner.

1584 (i) In a cooperative, on nonpayment of an assessment on a unit, the  
1585 unit owner may be evicted in the same manner as provided by law in  
1586 the case of an unlawful holdover by a tenant, and the lien may be  
1587 foreclosed as provided by this section.

1588 (j) The association's lien may be foreclosed in like manner as a  
1589 mortgage on real property.

1590 (k) In any action by the association to collect assessments or to  
1591 foreclose a lien for unpaid assessments, the court may appoint a  
1592 receiver of the unit owner pursuant to section 52-504 to collect all sums  
1593 alleged to be due from that unit owner prior to or during the pendency  
1594 of the action. The court may order the receiver to pay any sums held  
1595 by the receiver to the association during the pendency of the action to  
1596 the extent of the association's common expense assessments based on a  
1597 periodic budget adopted by the association pursuant to subsection (a)  
1598 of section 47-257, as amended by this act.

1599 (l) If a holder of a first or second security interest on a unit  
1600 forecloses that security interest, the purchaser at the foreclosure sale is  
1601 not liable for any unpaid assessments against that unit which became  
1602 due before the sale, other than the assessments which are prior to that  
1603 security interest under subsection (b) of this section. Any unpaid  
1604 assessments not satisfied from the proceeds of sale become common  
1605 expenses collectible from all the unit owners, including the purchaser.

1606 (m) An association may not commence an action to foreclose a lien  
1607 on a unit under this section unless: (1) The unit owner, at the time the  
1608 action is commenced, owes a sum equal to at least three months of  
1609 common expense assessments based on the periodic budget last  
1610 adopted by the association pursuant to subsection (a) of section 47-257,  
1611 as amended by this act, and the unit owner has failed to accept or  
1612 comply with a payment plan offered by the association; and (2) the  
1613 executive board votes to commence a foreclosure action specifically  
1614 against that unit.

1615 (n) Unless the parties otherwise agree, the association shall apply  
1616 any sums paid by unit owners who are delinquent in paying  
1617 assessments in the following order: (1) Unpaid assessments; (2) late  
1618 charges; (3) reasonable attorney's fees and costs and other reasonable  
1619 collection charges; and (4) all other unpaid fees, charges, fines,  
1620 penalties, interest and late charges.

1621 (o) If the only sums due with respect to a unit are fines and related

1622 sums imposed against the unit, a foreclosure action may not be  
1623 commenced against the unit unless the association has a judgment  
1624 against the unit owner for the fines and related sums and has perfected  
1625 a judgment lien against the unit.

1626 (p) Every aspect of a foreclosure, sale or other disposition under this  
1627 section, including the method, advertising, time, date, place and terms,  
1628 shall be commercially reasonable.

1629 Sec. 30. Section 47-260 of the general statutes is repealed and the  
1630 following is substituted in lieu thereof (*Effective October 1, 2009*):

1631 [(a) The association shall keep financial records sufficiently detailed  
1632 to enable the association to comply with section 47-270. All accounting,  
1633 financial and other books and records of the association, including, but  
1634 not limited to, minutes of meetings and voting records of the executive  
1635 board, shall be made reasonably available by the executive board or a  
1636 managing agent of the association for examination and copying by any  
1637 unit owner, or the unit owner's authorized agent, upon the request of  
1638 such unit owner or agent.]

1639 (a) An association shall retain the following:

1640 (1) Detailed records of receipts and expenditures affecting the  
1641 operation and administration of the association and other appropriate  
1642 accounting records;

1643 (2) Minutes of all meetings of its unit owners and executive board  
1644 other than executive sessions, a record of all actions taken by the unit  
1645 owners or executive board without a meeting, and a record of all  
1646 actions taken by a committee in place of the executive board on behalf  
1647 of the association;

1648 (3) The names of unit owners in a form that permits preparation of a  
1649 list of the names of all owners and the addresses at which the  
1650 association communicates with them, in alphabetical order showing  
1651 the number of votes each owner is entitled to cast;

1652 (4) Its original or restated organizational documents, if required by  
1653 law other than this chapter, bylaws and all amendments to them, and  
1654 all rules currently in effect;

1655 (5) All financial statements and tax returns of the association for the  
1656 past three years;

1657 (6) A list of the names and addresses of its current executive board  
1658 members and officers;

1659 (7) Its most recent annual report delivered to the Secretary of the  
1660 State, if any;

1661 (8) Financial and other records sufficiently detailed to enable the  
1662 association to comply with section 47-270;

1663 (9) Copies of current contracts to which it is a party;

1664 (10) Records of executive board or committee actions to approve or  
1665 deny any requests for design or architectural approval from unit  
1666 owners; and

1667 (11) Ballots, proxies and other records related to voting by unit  
1668 owners for one year after the election, action or vote to which they  
1669 relate.

1670 (b) Subject to subsections (c) and (d) of this section, all records  
1671 retained by an association shall be available for examination and  
1672 copying by a unit owner or the owner's authorized agent:

1673 (1) During reasonable business hours or at a mutually convenient  
1674 time and location; and

1675 (2) Upon five days' notice in a record reasonably identifying the  
1676 specific records of the association requested.

1677 (c) Records retained by an association may be withheld from  
1678 inspection and copying to the extent that they concern:

1679 (1) Personnel, salary and medical records relating to specific  
1680 individuals;

1681 (2) Contracts, leases and other commercial transactions to purchase  
1682 or provide goods or services, currently being negotiated;

1683 (3) Existing or potential litigation or mediation, arbitration or  
1684 administrative proceedings;

1685 (4) Existing or potential matters involving federal, state or local  
1686 administrative or other formal proceedings before a governmental  
1687 tribunal for enforcement of the declaration, bylaws or rules;

1688 (5) Communications with the association's attorney which are  
1689 otherwise protected by the attorney-client privilege or the attorney  
1690 work-product doctrine;

1691 (6) Information the disclosure of which would violate law other  
1692 than this chapter;

1693 (7) Records of an executive session of the executive board; or

1694 (8) Individual unit files other than those of the requesting owner.

1695 (d) An association may charge a reasonable fee for providing copies  
1696 of any records under this section and for supervising the unit owner's  
1697 inspection.

1698 (e) A right to copy records under this section includes the right to  
1699 receive copies by photocopying or other means, including copies  
1700 through an electronic transmission if available upon request by the  
1701 unit owner.

1702 (f) An association is not obligated to compile or synthesize  
1703 information.

1704 (g) Information provided pursuant to this section may not be used  
1705 for commercial purposes.

1706 [(b)] (h) Notwithstanding any provision of the declaration or bylaws  
1707 to the contrary, at least fourteen days prior to entering into any loan  
1708 agreement on behalf of the association, the executive board shall (1)  
1709 disclose in writing to all unit owners the amount and terms of the loan  
1710 and the estimated effect of such loan on any common expense  
1711 assessment, and (2) afford the unit owners a reasonable opportunity to  
1712 submit written comments to the executive board with respect to such  
1713 loan.

1714 Sec. 31. (NEW) (*Effective October 1, 2009*) (a) Before adopting,  
1715 amending or repealing any rule, the executive board shall give all unit  
1716 owners notice of: (1) Its intention to adopt, amend or repeal a rule and  
1717 provide the text of the rule or the proposed change; and (2) a date on  
1718 which the executive board will act on the proposed rule or amendment  
1719 after considering comments from unit owners.

1720 (b) Following adoption, amendment or repeal of a rule, the  
1721 association shall notify the unit owners of its action and provide a copy  
1722 of any new or revised rule.

1723 (c) An association may adopt rules to establish and enforce  
1724 construction and design criteria and aesthetic standards if the  
1725 declaration so provides. If the declaration so provides, the association  
1726 shall adopt procedures for enforcement of those standards and for  
1727 approval of construction applications, including a reasonable time  
1728 within which the association must act after an application is submitted  
1729 and the consequences of its failure to act.

1730 (d) A rule regulating display of the flag of the United States must be  
1731 consistent with federal law. In addition, the association may not  
1732 prohibit display on a unit or on a limited common element adjoining a  
1733 unit of the flag of this state, or signs regarding candidates for public or  
1734 association office or ballot questions, but the association may adopt  
1735 rules governing the time, place, size, number and manner of those  
1736 displays.

1737 (e) Unit owners may peacefully assemble on the common elements

1738 to consider matters related to the common interest community, but the  
1739 association may adopt rules governing the time, place and manner of  
1740 those assemblies.

1741 (f) An association may adopt rules that affect the use of or behavior  
1742 in units that may be used for residential purposes, only to: (1)  
1743 Implement a provision of the declaration; (2) regulate any behavior in  
1744 or occupancy of a unit which violates the declaration or adversely  
1745 affects the use and enjoyment of other units or the common elements  
1746 by other unit owners; or (3) restrict the leasing of residential units to  
1747 the extent those rules are reasonably designed to meet underwriting  
1748 requirements of institutional lenders that regularly make loans secured  
1749 by first mortgages on units in common interest communities or  
1750 regularly purchase those mortgages.

1751 (g) An association's internal business operating procedures need not  
1752 be adopted as rules.

1753 (h) Every rule must be reasonable.

1754 Sec. 32. (NEW) (*Effective October 1, 2009*) (a) An association shall  
1755 deliver any notice required to be given by the association under  
1756 chapter 828 of the general statutes, as amended by this act, and  
1757 sections 2, 8, 9, 13, 17 and 31 to 35, inclusive, of this act, to any mailing  
1758 or electronic mail address a unit owner designates. Otherwise, the  
1759 association may deliver notices by: (1) Hand delivery to each unit  
1760 owner; (2) hand delivery, United States mail postage paid, or  
1761 commercially reasonable delivery service to the mailing address of  
1762 each unit; (3) electronic means, if the unit owner has given the  
1763 association an electronic address; or (4) any other method reasonably  
1764 calculated to provide notice to the unit owner.

1765 (b) The ineffectiveness of a good faith effort to deliver notice by an  
1766 authorized means does not invalidate action taken at or without a  
1767 meeting.

1768 Sec. 33. (NEW) (*Effective October 1, 2009*) (a) Notwithstanding any

1769 provision of the declaration or bylaws, unit owners present in person,  
1770 by proxy or by absentee ballot at any meeting of the unit owners at  
1771 which a quorum is present, may remove any member of the executive  
1772 board and any officer elected by the unit owners, with or without  
1773 cause, if the number of votes cast in favor of removal exceeds the  
1774 number of votes cast in opposition to removal, except that: (1) A  
1775 member appointed by the declarant may not be removed by a unit  
1776 owner vote during the period of declarant control; (2) a member  
1777 appointed under subsection (g) of section 47-245 of the general  
1778 statutes, as amended by this act, may be removed only by the person  
1779 that appointed that member; and (3) the unit owners may not consider  
1780 whether to remove a member of the executive board or an officer  
1781 elected by the unit owners at a meeting of the unit owners unless that  
1782 subject was listed in the notice of the meeting.

1783 (b) At any meeting at which a vote to remove a member of the  
1784 executive board or an officer is to be taken, the member or officer being  
1785 considered for removal must have a reasonable opportunity to speak  
1786 before the vote.

1787 Sec. 34. (NEW) (*Effective October 1, 2009*) (a) The executive board, at  
1788 least annually, shall adopt a proposed budget for the common interest  
1789 community for consideration by the unit owners. Not later than thirty  
1790 days after adoption of a proposed budget, the executive board shall  
1791 provide to all the unit owners a summary of the budget, including any  
1792 reserves, and a statement of the basis on which any reserves are  
1793 calculated and funded. Simultaneously, the board shall set a date not  
1794 less than ten days or more than sixty days after providing the  
1795 summary for a meeting of the unit owners to consider ratification of  
1796 the budget. Unless at that meeting a majority of all unit owners or any  
1797 larger number specified in the declaration reject the budget, the budget  
1798 is ratified, whether or not a quorum is present. If a proposed budget is  
1799 rejected, the budget last ratified by the unit owners continues until unit  
1800 owners ratify a subsequent budget.

1801 (b) The executive board, at any time, may propose a special

1802 assessment. Except as otherwise provided in subsection (c) of this  
1803 section, the assessment is effective only if the executive board follows  
1804 the procedures for ratification of a budget described in subsection (a)  
1805 of this section and the unit owners do not reject the proposed  
1806 assessment.

1807 (c) If the executive board determines by a two-thirds vote that a  
1808 special assessment is necessary to respond to an emergency: (1) The  
1809 special assessment becomes effective immediately in accordance with  
1810 the terms of the vote; (2) notice of the emergency assessment must be  
1811 provided promptly to all unit owners; and (3) the executive board may  
1812 spend the funds paid on account of the emergency assessment only for  
1813 the purposes described in the vote.

1814 Sec. 35. (NEW) (*Effective October 1, 2009*) (a) The following  
1815 requirements apply to an association's authority under subdivision (4)  
1816 of subsection (a) of section 47-244 of the general statutes, as amended  
1817 by this act, to institute and maintain a proceeding alleging a  
1818 construction defect with respect to the common interest community,  
1819 whether by litigation, mediation, arbitration or administratively,  
1820 against a declarant or an employee, independent contractor or other  
1821 person directly or indirectly providing labor or materials to a  
1822 declarant:

1823 (1) Subject to subsection (e) of this section, before the association  
1824 institutes a proceeding described in this section, it shall provide notice  
1825 in a record of its claims to the declarant and those persons that the  
1826 association seeks to hold liable for the claimed defects. The text of the  
1827 notice may be in any form reasonably calculated to give notice of the  
1828 general nature of the association's claims, including a list of the  
1829 claimed defects. The notice may be delivered by any method of service  
1830 and may be addressed to any person if the method of service used: (A)  
1831 Provides actual notice to the person named in the claim; or (B) would  
1832 be sufficient to give notice to the person in connection with  
1833 commencement of an action by the association against the person.

1834 (2) Subject to subsection (e) of this section, the association may not  
1835 institute a proceeding against a person until forty-five days after the  
1836 association sends notice of its claim to that person.

1837 (3) During the period described in subdivision (2) of this subsection,  
1838 the declarant and any other person to which the association gave  
1839 notice may present to the association a plan to repair or otherwise  
1840 remedy the construction defects described in the notice. If the  
1841 association does not receive a timely remediation plan from a person  
1842 to which it gave notice, or if the association does not accept the terms  
1843 of any plan submitted, the association may institute a proceeding  
1844 against the person.

1845 (4) If the association receives one or more timely remediation plans,  
1846 the executive board shall consider promptly those plans and notify the  
1847 persons to which it directed notice whether the plan is acceptable as  
1848 presented, acceptable with stated conditions, or not accepted.

1849 (5) If the association accepts a remediation plan from a person the  
1850 association seeks to hold liable for the claimed defect, or if a person  
1851 agrees to stated conditions to an otherwise acceptable plan, the parties  
1852 shall agree on a period for implementation of the plan. The association  
1853 may not institute a proceeding against the person during the time the  
1854 plan is being diligently implemented.

1855 (6) Any statute of limitation affecting the association's right of action  
1856 against a declarant or other person is tolled during the period  
1857 described in subdivision (2) of this subsection and during any  
1858 extension of that time because a person to which notice was directed  
1859 has commenced and is diligently pursuing the remediation plan.

1860 (b) After the time described in subdivision (2) of subsection (a) of  
1861 this section expires, whether or not the association agrees to any  
1862 remediation plan, a proceeding may be instituted by: (1) The  
1863 association against a person to which notice was directed which fails to  
1864 submit a timely remediation plan, the plan of which is not acceptable,  
1865 or which fails to pursue diligent implementation of that plan; or (2) a

1866 unit owner with respect to the owner's unit and any limited common  
1867 elements assigned to that unit, regardless of any action of the  
1868 association.

1869 (c) This section does not preclude the association from making  
1870 repairs necessary to mitigate damages or to correct any defect that  
1871 poses a significant and immediate health or safety risk.

1872 (d) Subject to the other provisions of this section, the determination  
1873 of whether and when the association may institute a proceeding  
1874 described in this section may be made by the executive board. The  
1875 declaration may not require a vote by any number or percentage of  
1876 unit owners as a condition to institution of a proceeding.

1877 (e) This section does not prevent an association from seeking  
1878 equitable relief at any time without complying with subdivision (1) or  
1879 (2) of subsection (a) of this section.

1880 Sec. 36. Section 47-263 of the general statutes is repealed and the  
1881 following is substituted in lieu thereof (*Effective October 1, 2009*):

1882 (a) Except as provided in subsection (b) of this section, a declarant,  
1883 before offering any interest in a unit to the public, shall prepare a  
1884 public offering statement conforming to the requirements of sections  
1885 47-264 to 47-267, inclusive, as amended by this act.

1886 (b) A declarant may transfer responsibility for preparation of all or a  
1887 part of the public offering statement to a successor declarant. In the  
1888 event of any such transfer, the transferor shall provide the transferee  
1889 with any information necessary to enable the transferee to fulfill the  
1890 requirements of subsection (a) of this section.

1891 (c) A declarant or successor declarant or a dealer who offers a unit  
1892 to a purchaser shall deliver a public offering statement in the manner  
1893 prescribed in subsection (a) of section 47-269. The declarant or  
1894 successor declarant who prepared all or a part of the public offering  
1895 statement is liable to all persons claiming an interest in the common

1896 interest community under section 47-269 for failure to deliver the  
1897 public offering statement and under section 47-278, as amended by this  
1898 act, for any false or misleading statement set forth therein or for any  
1899 omission of a material fact therefrom. [with respect to that portion of  
1900 the public offering statement which he prepared. If a declarant did not  
1901 prepare any part of a public offering statement that he delivers, he is  
1902 not liable for any false or misleading statement set forth therein or for  
1903 any omission of a material fact therefrom unless he had actual  
1904 knowledge of the statement or omission or, in the exercise of  
1905 reasonable care, should have known of the statement or omission.]

1906 (d) If a unit is part of a common interest community and is part of  
1907 any other real property regime in connection with the sale of which the  
1908 delivery of a public offering statement is required under the general  
1909 statutes, a single public offering statement conforming to the  
1910 requirements of sections 47-264 to 47-267, inclusive, as amended by  
1911 this act, as those requirements relate to each regime in which the unit  
1912 is located, and to any other requirements imposed under the general  
1913 statutes, may be prepared and delivered in lieu of providing two or  
1914 more public offering statements.

1915 Sec. 37. Section 47-264 of the general statutes is repealed and the  
1916 following is substituted in lieu thereof (*Effective October 1, 2009*):

1917 (a) Except as provided in subsection (b) of this section, a public  
1918 offering statement shall contain or fully and accurately disclose:

1919 (1) The name and principal address of the declarant and of the  
1920 common interest community, and a statement that the common  
1921 interest community is either a condominium, cooperative or planned  
1922 community;

1923 (2) A general description of the common interest community,  
1924 including to the extent known, the types, number and declarant's  
1925 schedule of commencement and completion of construction of  
1926 buildings and amenities that the declarant anticipates including in the  
1927 common interest community;

1928       (3) The number of units in the common interest community;

1929       (4) Copies of the declaration, including any surveys and plans, and  
1930 any other recorded covenants, conditions, restrictions and reservations  
1931 created by the declarant affecting the common interest community; the  
1932 bylaws, and any rules or regulations of the association; any deeds,  
1933 contracts and leases to be signed by or delivered to purchasers at  
1934 closing, and copies of and a brief narrative description of any contracts  
1935 or leases that will or may be subject to cancellation by the association  
1936 under section 47-247, as amended by this act;

1937       (5) A projected budget for the association, either within or as an  
1938 exhibit to the public offering statement, for one year after the date of  
1939 the first conveyance to a purchaser, and thereafter the current budget  
1940 of the association, a statement of who prepared the budget, and a  
1941 statement of the budget's assumptions concerning occupancy and  
1942 inflation factors. The budget shall include, without limitation: (A) A  
1943 statement of the amount, or a statement that there is no amount,  
1944 included in the budget as a reserve for repairs and replacement; (B) a  
1945 statement of any other reserves; (C) the projected common expense  
1946 assessment by category of expenditures for the association; and (D) the  
1947 projected monthly common expense assessment for each type of unit;

1948       (6) Any services not reflected in the budget that the declarant  
1949 provides, or expenses that he pays and which he expects may become  
1950 at any subsequent time a common expense of the association and the  
1951 projected common expense assessment attributable to each of those  
1952 services or expenses for the association and for each type of unit;

1953       (7) Any initial or special fee due from the purchaser at closing,  
1954 together with a description of the purpose and method of calculating  
1955 the fee;

1956       (8) A brief narrative description of any liens, defects or  
1957 encumbrances on or affecting the title to the common interest  
1958 community not otherwise disclosed under subdivision (4) of this  
1959 subsection;

1960 (9) A description of any financing offered or arranged by the  
1961 declarant;

1962 (10) The terms and significant limitations of any warranties  
1963 provided by the declarant, including statutory warranties and  
1964 limitations on the enforcement thereof or on damages;

1965 (11) A statement that: (A) Within fifteen days after receipt of a  
1966 public offering statement a purchaser, before conveyance, may cancel  
1967 any contract for purchase of a unit from a declarant, and (B) if a  
1968 declarant fails to provide a public offering statement to a purchaser  
1969 before conveying a unit, that purchaser may recover from the  
1970 declarant ten per cent of the sales price of the unit plus ten per cent of  
1971 the share, proportionate to his common expense liability, of any  
1972 indebtedness of the association secured by security interests  
1973 encumbering the common interest community;

1974 (12) A statement of any unsatisfied judgments or pending suits  
1975 against the association, and the status of any pending suits material to  
1976 the common interest community of which a declarant has actual  
1977 knowledge;

1978 (13) A statement that any deposit made in connection with the  
1979 purchase of a unit will be held in an escrow account until closing and  
1980 will be returned to the purchaser if the purchaser cancels the contract  
1981 pursuant to section 47-269, together with the name and address of the  
1982 escrow agent;

1983 (14) Any restraints on alienation of any portion of the common  
1984 interest community and any restrictions (A) on use, occupancy and  
1985 alienation of the units, and (B) on the amount for which a unit may be  
1986 sold or on the amount that may be received by a unit owner on sale,  
1987 condemnation or casualty loss to the unit or to the common interest  
1988 community, or on termination of the common interest community;

1989 (15) A description of the insurance coverage provided for the benefit  
1990 of unit owners;

1991 (16) Any current or expected fees or charges to be paid by unit  
1992 owners for the use of the common elements and other facilities related  
1993 to the common interest community;

1994 (17) The extent to which financial arrangements have been provided  
1995 for completion of all improvements that the declarant is obligated to  
1996 build pursuant to section 47-280;

1997 (18) A brief narrative description of any zoning and other land use  
1998 requirements affecting the common interest community;

1999 (19) All unusual and material circumstances, features and  
2000 characteristics of the common interest community and the units; [and]

2001 (20) In a cooperative, (A) either a statement that the unit owners will  
2002 be entitled, for federal, state and local income tax purposes, to a pass-  
2003 through of deductions for payments made by the association for real  
2004 property taxes and interest paid the holder of a security interest  
2005 encumbering the cooperative, or a statement that no assurances are  
2006 made in that regard, and (B) a statement as to the effect on every unit  
2007 owner if the association fails to pay real property taxes or payments  
2008 due the holder of a security interest encumbering the cooperative; and

2009 (21) A description of any arrangement described in section 8 of this  
2010 act.

2011 (b) A declarant promptly shall amend the public offering statement  
2012 to report any material change in the information required to be  
2013 included in the public offering statement.

2014 Sec. 38. Section 47-274 of the general statutes is repealed and the  
2015 following is substituted in lieu thereof (*Effective October 1, 2009*):

2016 (a) Express warranties made by any seller to a purchaser of a unit, if  
2017 relied on by the purchaser, are created as follows:

2018 (1) Any affirmation of fact or promise which relates to the unit, its  
2019 use, or rights appurtenant thereto, area improvements to the common

2020 interest community that would directly benefit the unit, or the right to  
2021 use or have the benefit of facilities not located in the common interest  
2022 community, creates an express warranty that the unit, area  
2023 improvements and related rights and uses will conform to the  
2024 affirmation or promise;

2025 (2) Any model or description of the physical characteristics of the  
2026 common interest community, including plans and specifications of or  
2027 for improvements, creates an express warranty that the common  
2028 interest community will substantially conform to the model or  
2029 description unless the model or description clearly discloses that it is  
2030 only proposed or is subject to change;

2031 (3) Any description of the quantity or extent of the real property  
2032 comprising the common interest community, including surveys,  
2033 creates an express warranty that the common interest community will  
2034 conform to the description, subject to customary tolerances; and

2035 (4) A provision that a purchaser may put a unit only to a specified  
2036 use is an express warranty that the specified use is lawful.

2037 (b) Neither formal words, such as "warranty" or "guarantee", nor a  
2038 specific intention to make a warranty, are necessary to create an  
2039 express warranty of quality, but a statement purporting to be merely  
2040 an opinion or commendation of the real property or its value does not  
2041 create a warranty.

2042 (c) Any conveyance of a unit transfers to the purchaser all express  
2043 warranties of quality made by previous sellers only to the extent such a  
2044 conveyance would transfer warranties pursuant to chapter 827.

2045 Sec. 39. Section 47-278 of the general statutes is repealed and the  
2046 following is substituted in lieu thereof (*Effective October 1, 2009*):

2047 [(a) If a declarant or any other person subject to this chapter fails to  
2048 comply with any of its provisions or any provision of the declaration  
2049 or bylaws, any person or class of persons adversely affected by the

2050 failure to comply has a claim for appropriate relief. Punitive damages  
 2051 may be awarded for a wilful failure to comply with this chapter.]

2052 (a) A declarant, association, unit owner or any other person subject  
 2053 to this chapter may bring an action to enforce a right granted or  
 2054 obligation imposed by this chapter, the declaration or the bylaws. The  
 2055 court may award [court costs together with] reasonable attorney's fees  
 2056 and costs.

2057 (b) Parties to a dispute arising under this chapter, the declaration or  
 2058 the bylaws may agree to resolve the dispute by any form of binding or  
 2059 nonbinding alternative dispute resolution, provided: (1) A declarant  
 2060 may agree with the association to do so only after the period of  
 2061 declarant control [passes] has expired; and (2) an agreement to submit  
 2062 to any form of binding alternative dispute resolution must be in a  
 2063 [writing signed] record authenticated by the parties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	47-202
Sec. 2	<i>October 1, 2009</i>	New section
Sec. 3	<i>October 1, 2009</i>	47-214
Sec. 4	<i>October 1, 2009</i>	47-215
Sec. 5	<i>October 1, 2009</i>	47-216
Sec. 6	<i>October 1, 2009</i>	47-218
Sec. 7	<i>October 1, 2009</i>	47-219
Sec. 8	<i>October 1, 2009</i>	New section
Sec. 9	<i>October 1, 2009</i>	New section
Sec. 10	<i>October 1, 2009</i>	47-222
Sec. 11	<i>October 1, 2009</i>	47-224
Sec. 12	<i>October 1, 2009</i>	47-232
Sec. 13	<i>October 1, 2009</i>	New section
Sec. 14	<i>October 1, 2009</i>	47-235
Sec. 15	<i>October 1, 2009</i>	47-236
Sec. 16	<i>October 1, 2009</i>	47-237
Sec. 17	<i>October 1, 2009</i>	New section
Sec. 18	<i>October 1, 2009</i>	47-243
Sec. 19	<i>October 1, 2009</i>	47-244

Sec. 20	<i>October 1, 2009</i>	47-245
Sec. 21	<i>October 1, 2009</i>	47-247
Sec. 22	<i>October 1, 2009</i>	47-248
Sec. 23	<i>October 1, 2009</i>	47-250
Sec. 24	<i>October 1, 2009</i>	47-251
Sec. 25	<i>October 1, 2009</i>	47-252
Sec. 26	<i>October 1, 2009</i>	47-255
Sec. 27	<i>October 1, 2009</i>	47-256
Sec. 28	<i>October 1, 2009</i>	47-257
Sec. 29	<i>October 1, 2009</i>	47-258
Sec. 30	<i>October 1, 2009</i>	47-260
Sec. 31	<i>October 1, 2009</i>	New section
Sec. 32	<i>October 1, 2009</i>	New section
Sec. 33	<i>October 1, 2009</i>	New section
Sec. 34	<i>October 1, 2009</i>	New section
Sec. 35	<i>October 1, 2009</i>	New section
Sec. 36	<i>October 1, 2009</i>	47-263
Sec. 37	<i>October 1, 2009</i>	47-264
Sec. 38	<i>October 1, 2009</i>	47-274
Sec. 39	<i>October 1, 2009</i>	47-278

***Statement of Legislative Commissioners:***

Throughout the bill, changes were made for consistency and accuracy.

***JUD***      *Joint Favorable Subst.-LCO*