



General Assembly

January Session, 2009

Raised Bill No. 1119

LCO No. 4769

04769_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

**AN ACT ESTABLISHING AN OFFICE OF CONDOMINIUM
OMBUDSMAN AND REVISING CERTAIN COMMON INTEREST
COMMUNITY REQUIREMENTS.**

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

1 Section 1. (NEW) (*Effective January 1, 2010*) (a) For the purposes of
2 this section and sections 2 to 4, inclusive, of this act:

3 (1) "Board of directors" means a board of directors, as defined in
4 section 47-68a of the general statutes, of a condominium;

5 (2) "Commissioner" means the Commissioner of Consumer
6 Protection;

7 (3) "Community association manager" means a community
8 association manager, as defined in section 20-450 of the general
9 statutes;

10 (4) "Common interest community" means a common interest
11 community, as defined in section 47-202 of the general statutes;

12 (5) "Condominium" means a condominium, as defined in section 47-

13 68a of the general statutes;

14 (6) "Executive board" means an executive board, as defined in
15 section 47-202 of the general statutes, of a common interest
16 community; and

17 (7) "Unit owner" means a unit owner, as defined in section 47-68a of
18 the general statutes, of a condominium, or section 47-202 of the general
19 statutes, of a common interest community.

20 (b) There is established an Office of Condominium Ombudsman
21 within the Department of Consumer Protection. The Office of
22 Condominium Ombudsman shall be under the direction of the
23 Commissioner of Consumer Protection.

24 (c) With respect to the Office of Condominium Ombudsman, the
25 Commissioner of Consumer Protection may:

26 (1) Investigate and resolve complaints concerning unit owners,
27 boards of directors, executive boards, community association
28 managers, and managing agents of condominiums or common interest
29 communities;

30 (2) Analyze the laws regarding condominiums and common interest
31 communities and make recommendations to the Governor and the
32 General Assembly for legislation;

33 (3) Publish information concerning laws and regulations related to
34 condominiums and common interest communities;

35 (4) Refer any complaint received by the office to the appropriate law
36 enforcement agency for prosecution, if deemed appropriate by the
37 commissioner; and

38 (5) Adopt regulations, in accordance with chapter 54 of the general
39 statutes, to implement this section and sections 2 to 4, inclusive, of this
40 act.

41 Sec. 2. (NEW) (*Effective January 1, 2010*) (a) Any unit owner or group
42 of unit owners may file a request with the Office of Condominium
43 Ombudsman that the commissioner review the unit owners' complaint
44 regarding alleged violations of any provision of chapter 825 of the
45 general statutes or chapter 828 of the general statutes, as the case may
46 be, or a bylaw of a condominium association or common interest
47 community concerning the budget and appropriation of condominium
48 association or common interest community funds, the calling and
49 conduct of condominium association or common interest community
50 meetings, or access to public records of the condominium association
51 or common interest community, provided (1) the complaint of the unit
52 owner or group of unit owners was reviewed through the dispute
53 resolution process established in section 3 of this act, or (2) the unit
54 owner or group of unit owners has filed a sworn affidavit that the
55 condominium association or common interest community has not
56 established such dispute resolution process. Such request shall be in
57 writing, on such form as the commissioner may prescribe, and shall be
58 accompanied by a fee of thirty-five dollars. Upon receipt of such
59 request, the commissioner shall notify the condominium association or
60 common interest community that is the subject of the complaint of
61 such request and the fee required by this subsection. Not later than
62 thirty days after receiving notice of the complaint from the
63 commissioner, the condominium association or common interest
64 community shall pay to the commissioner a fee of thirty-five dollars. If
65 such condominium association or common interest community fails to
66 pay such fee not later than thirty days after the date of such notice, the
67 commissioner shall assess a penalty of one hundred dollars against
68 such condominium association or common interest community, in
69 addition to such thirty-five-dollar fee.

70 (b) The commissioner may mediate a complaint pursuant to a
71 request filed under subsection (a) of this section.

72 (c) The commissioner may conduct an investigation and make
73 findings and recommendations regarding any matter concerning a

74 violation of chapter 825 of the general statutes, chapter 828 of the
75 general statutes, or the bylaws of a condominium association or
76 common interest community.

77 (d) After notice and hearing pursuant to chapter 54 of the general
78 statutes, the commissioner may:

79 (1) Issue an order to any person found to have violated any
80 provision of chapter 825 or 828 of the general statutes, or the bylaws of
81 the condominium association or common interest community
82 requiring such person to cease such violation;

83 (2) Order any person found to have violated any such provision to
84 make restitution for damages caused by such violation;

85 (3) Assess a penalty up to two hundred dollars per knowing
86 violation; or

87 (4) Through the Attorney General, petition the superior court for the
88 judicial district where the violation occurred for the enforcement of
89 any order issued by the commissioner, or for appropriate temporary
90 relief or a restraining order, and shall certify and file in the court a
91 transcript of the entire record of all hearings, including all testimony
92 upon which such order was made and the findings and orders made
93 by the commissioner. The court may grant such relief by injunction or
94 otherwise, including temporary relief, as it deems equitable and may
95 make and enter a decree enforcing, modifying and enforcing as so
96 modified, or setting aside, in whole or in part, any order of the
97 commissioner.

98 (e) Any person aggrieved by a final decision of the commissioner
99 may appeal therefrom in accordance with section 4-183 of the general
100 statutes.

101 (f) Any fee or penalty collected pursuant to this section shall be
102 deposited in the General Fund.

103 Sec. 3. (NEW) (*Effective from passage*) Not later than January 1, 2010,
104 each condominium association or common interest community shall
105 establish a dispute resolution process for unit owner complaints
106 regarding compliance by the condominium association or common
107 interest community with any provision of chapter 825 of the general
108 statutes, chapter 828 of the general statutes, or a bylaw of a
109 condominium association or common interest community concerning
110 the budget and appropriation of condominium association or common
111 interest community funds, the calling and conduct of condominium
112 association or common interest community meetings, or access to
113 records of the condominium association or common interest
114 community. The dispute resolution process shall provide the
115 opportunity for the unit owner to be heard regarding such complaint.
116 Any complaint that is not resolved through the dispute resolution
117 process established under this section may be filed with the Office of
118 Condominium Ombudsman on or after January 1, 2010, pursuant to
119 section 2 of this act.

120 Sec. 4. (NEW) (*Effective January 1, 2010*) On January 1, 2010, and
121 annually thereafter, each condominium association and common
122 interest community shall provide the Commissioner of Consumer
123 Protection a certified copy of the last annual or biennial report of the
124 association filed with the Secretary of the State, and shall pay a fee to
125 the commissioner in an amount as follows: (1) Fifty dollars for each
126 condominium association or common interest community with twenty
127 or fewer units; (2) one hundred dollars for each condominium
128 association or common interest community with more than twenty
129 units but less than one hundred units; and (3) two hundred dollars for
130 each condominium association or common interest community with
131 one hundred or more units. Any condominium association or common
132 interest community that fails to pay such fee shall, in addition to such
133 fee, be assessed a penalty of one hundred dollars for each year such fee
134 was not paid. The Attorney General, upon referral by the
135 commissioner, may bring an action in the superior court to collect such
136 fees and penalties.

137 Sec. 5. Section 20-452 of the general statutes is repealed and the
138 following is substituted in lieu thereof (*Effective January 1, 2010*):

139 (a) Any person seeking a certificate of registration shall apply to the
140 department in writing, on a form provided by the department. Such
141 application shall include the applicant's name, residence address,
142 business address, business telephone number and such other
143 information as the department may require.

144 (b) Each application for a certificate of registration as a community
145 association manager shall be accompanied by an application fee of
146 sixty dollars and a registration fee of [one] four hundred dollars. The
147 department shall refund the registration fee if it refuses to issue a
148 certificate of registration.

149 Sec. 6. Subsection (d) of section 20-457 of the general statutes is
150 repealed and the following is substituted in lieu thereof (*Effective*
151 *January 1, 2010*):

152 (d) All certificates issued under the provisions of sections 20-450 to
153 20-462, inclusive, as amended by this act, shall expire [annually]
154 biennially on the thirty-first day of January. The fee for renewal of a
155 certificate shall be [one] four hundred dollars.

156 Sec. 7. Section 47-216 of the general statutes is repealed and the
157 following is substituted in lieu thereof (*Effective October 1, 2009*):

158 (a) Except as provided in section 47-217, sections 47-204, 47-205, 47-
159 206, 47-222, 47-223, 47-240, 47-244, as amended by this act, 47-253, 47-
160 258, 47-260, as amended by this act, 47-270 and 47-278, and
161 [subsection] subsections (b), (i) and (j) of section 47-236, and section 47-
162 202 to the extent necessary in construing any of those sections, apply to
163 all common interest communities created in this state before January 1,
164 1984; but those sections apply only with respect to events and
165 circumstances occurring after January 1, 1984, and do not invalidate
166 existing provisions of the declaration, bylaws or surveys or plans of

167 those common interest communities.

168 (b) Section 47-210 and subsections (b) to (d), inclusive, of section 47-
169 225 apply to all common interest communities created in this state
170 prior to January 1, 1984, but shall not invalidate existing provisions of
171 the declarations, bylaws or surveys or plans of those common interest
172 communities.

173 Sec. 8. Subsection (a) of section 47-244 of the general statutes is
174 repealed and the following is substituted in lieu thereof (*Effective*
175 *October 1, 2009*):

176 (a) Except as provided in subsection (b) of this section, and subject
177 to the provisions of the declaration, the association, even if
178 unincorporated, may:

179 (1) Adopt and amend bylaws and rules and regulations;

180 (2) Adopt and amend budgets for revenues, expenditures and
181 reserves and collect assessments for common expenses from unit
182 owners;

183 (3) Hire and discharge managing agents and other employees,
184 agents and independent contractors;

185 (4) Institute, defend or intervene in litigation or administrative
186 proceedings in its own name on behalf of itself or two or more unit
187 owners on matters affecting the common interest community;

188 (5) Make contracts and incur liabilities;

189 (6) Regulate the use, maintenance, repair, replacement and
190 modification of common elements;

191 (7) Cause additional improvements to be made as a part of the
192 common elements;

193 (8) Acquire, hold, encumber and convey in its own name any right,

194 title or interest to real property or personal property, but (A) common
195 elements in a condominium or planned community may be conveyed
196 or subjected to a security interest only pursuant to section 47-254 and
197 (B) part of a cooperative may be conveyed, or all or part of a
198 cooperative may be subjected to a security interest, only pursuant to
199 section 47-254;

200 (9) Grant easements, leases, licenses and concessions through or
201 over the common elements;

202 (10) Impose and receive any payments, fees or charges for the use,
203 rental or operation of the common elements, other than limited
204 common elements described in subsections (2) and (4) of section 47-
205 221, and for services provided to unit owners;

206 (11) Impose charges or interest or both for late payment of
207 assessments and, after notice and an opportunity to be heard, levy
208 reasonable fines for violations of the declaration, bylaws, rules and
209 regulations of the association;

210 (12) Impose reasonable charges for the preparation and recordation
211 of amendments to the declaration, resale certificates required by
212 section 47-270 or statements of unpaid assessments;

213 (13) Provide for the indemnification of its officers and executive
214 board and maintain directors' and officers' liability insurance;

215 (14) [Assign] Except as otherwise provided by the declaration,
216 assign its right to future income, including the right to receive common
217 expense assessments [, but only to the extent the declaration expressly
218 so provides] by the vote of unit owners of units to which at least fifty-
219 one per cent of the votes in the association are allocated;

220 (15) Exercise any other powers conferred by the declaration or
221 bylaws;

222 (16) Exercise all other powers that may be exercised in this state by

223 legal entities of the same type as the association;

224 (17) Exercise any other powers necessary and proper for the
225 governance and operation of the association; and

226 (18) Require, by regulation, that disputes between the executive
227 board and unit owners or between two or more unit owners regarding
228 the common interest community must be submitted to nonbinding
229 alternative dispute resolution in the manner described in the
230 regulation as a prerequisite to commencement of a judicial proceeding.

231 Sec. 9. Section 47-260 of the general statutes is repealed and the
232 following is substituted in lieu thereof (*Effective October 1, 2009*):

233 [(a) The association shall keep financial records sufficiently detailed
234 to enable the association to comply with section 47-270. All accounting,
235 financial and other books and records of the association, including, but
236 not limited to, minutes of meetings and voting records of the executive
237 board, shall be made reasonably available by the executive board or a
238 managing agent of the association for examination and copying by any
239 unit owner, or the unit owner's authorized agent, upon the request of
240 such unit owner or agent.

241 (b) Notwithstanding any provision of the declaration or bylaws to
242 the contrary, at least fourteen days prior to entering into any loan
243 agreement on behalf of the association, the executive board shall (1)
244 disclose in writing to all unit owners the amount and terms of the loan
245 and the estimated effect of such loan on any common expense
246 assessment, and (2) afford the unit owners a reasonable opportunity to
247 submit written comments to the executive board with respect to such
248 loan.]

249 (a) The association shall create and maintain the following records:

250 (1) Detailed records of receipts and expenditures affecting the
251 operation and administration of the association and other appropriate
252 accounting records;

253 (2) Minutes of all meetings of its unit owners and of the executive
254 board, a record of all actions taken by the unit owners or the executive
255 board without a meeting, and a record of all actions taken by a
256 committee in place of the executive board on behalf of the association;

257 (3) The names of unit owners in a form that permits preparation of a
258 list of the names and addresses of all owners in alphabetical order
259 showing the number of votes each owner is entitled to cast;

260 (4) The association's original or restated organizational documents,
261 if any, and bylaws and all amendments to such documents currently in
262 effect;

263 (5) Any financial statements and tax returns of the association for
264 the past three years;

265 (6) A list of the names and business addresses of its current
266 executive board members and officers;

267 (7) If incorporated, its most recent annual report delivered to the
268 Secretary of the State;

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

271 (9) All current written contracts to which the association is a party;

272 (10) Records of actions taken by an executive board or committee in
273 place of the executive board to approve or deny any requests from unit
274 owners for design or architectural approval; and

275 (11) Ballots, proxies and other records related to voting by unit
276 owners for one year after the election to which they relate.

277 (b) Subject to the provisions of subsections (c) and (d) of this section,
278 a unit owner or the unit owner's authorized agent may examine and
279 copy all records kept by the association. Such right of examination may
280 be exercised:

281 (1) Only if the unit owner describes with reasonable particularity
282 the records the unit owner desires to inspect or copy;

283 (2) Only during reasonable business hours, unless the association
284 and the unit owner or the unit owner's authorized agent agree to
285 another time;

286 (3) At the office of the association, the office of the association's
287 managing agent, or at a location within the town or towns in which the
288 common interest community is located, or a town that immediately
289 borders the town or towns in which the common interest community is
290 located, unless the association and the unit owner or the unit owner's
291 authorized agent agree to another location; and

292 (4) After the unit owner provides five days' written notice to the
293 association, unless the unit owner or the unit owner's authorized agent
294 and the association agree to an extension of time.

295 (c) Records kept by an association may be withheld from inspection
296 and copying to the extent the records concern:

297 (1) Personnel files of the employees or agents of the association;

298 (2) The medical records of any person that are in the possession of
299 the association;

300 (3) Contracts, leases and other commercial transactions to purchase
301 or provide goods or services, currently under negotiation;

302 (4) Pending or potential litigation;

303 (5) Matters involving state or local administrative or other formal
304 proceedings before a government agency for enforcement of the
305 declaration, bylaws or rules;

306 (6) Communications with legal counsel that are otherwise protected
307 by the attorney-client privilege or the attorney work product doctrine;

- 308 (7) Disclosure of information in violation of law;
- 309 (8) Records of an executive session of the executive board; or
- 310 (9) Individual unit files other than those of the requesting unit
 311 owner.

312 (d) Notwithstanding any provision of this chapter, the association
 313 shall withhold from inspection and copying any record that is required
 314 to be maintained as confidential under any state or federal law or any
 315 regulation of a federal or state agency.

316 (e) The association may charge a fee for providing copies of any
 317 records under this section and for supervising the unit owner's
 318 inspection, provided such fees shall not exceed the actual cost of any
 319 materials and labor incurred by the association.

320 (f) Any right to copy records under this section shall include the
 321 right to receive copies by photocopying or other means, including
 322 copies through an electronic transmission if available and so requested
 323 by the unit owner.

324 (g) The association shall not be required to compile or synthesize
 325 information pursuant to this section. Information provided pursuant to
 326 this section may not be used by any person for a commercial purpose.

327 (h) An association may provide unit owners with greater access to
 328 association records than is required by this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2010</i>	New section
Sec. 2	<i>January 1, 2010</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>January 1, 2010</i>	New section
Sec. 5	<i>January 1, 2010</i>	20-452
Sec. 6	<i>January 1, 2010</i>	20-457(d)

Sec. 7	<i>October 1, 2009</i>	47-216
Sec. 8	<i>October 1, 2009</i>	47-244(a)
Sec. 9	<i>October 1, 2009</i>	47-260

Statement of Purpose:

To: (1) Establish an Office of Condominium Ombudsman, and (2) amend the applicability of certain common interest community provisions, and amend the records an association is required to maintain or provide.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]