



Substitute House Bill No. 5434

Public Act No. 10-186

AN ACT CONCERNING THE COMMON INTEREST OWNERSHIP ACT.

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

Section 1. Section 47-202 of the 2010 supplement to the general statutes, as amended by section 1 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

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

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acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty per cent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than twenty per cent of the capital of the person. Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

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

(3) "Assessment" means the sums attributable to a unit and due [to] the association pursuant to section 47-257.

(4) "Association" or "unit owners' association" means the unit owners' association organized under section 47-243.

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

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

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(7) "Common expenses" means expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.

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

(9) "Common interest community" means real property described in a declaration with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for a share of (A) real property taxes on, (B) insurance premiums on, (C) maintenance of, (D) improvement of, or (E) services or other expenses related to, common elements, other units or any other real property other than that unit described in the declaration. "Common interest community" does not include an arrangement described in section 47-219a or a covenant described in section 47-219b. For purposes of this subdivision, "ownership of a unit" includes holding a leasehold interest of forty years or more in a unit, including renewal options. "Ownership of a unit" does not include the interest which a resident holds in a mutual housing association, as defined in subsection (b) of section 8-214f, by virtue of either a state contract for financial assistance or an individual occupancy agreement. An association of property owners funded solely by voluntary payments from those owners is not a common interest community.

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

(11) "Conversion building" means a building that at any time before creation of the common interest community was occupied wholly or partially by persons other than purchasers and persons who occupy

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with the consent of purchasers.

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

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

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

(15) "Declaration" means any instruments, however denominated, that create a common interest community, including any amendments to those instruments.

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

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

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

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

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

(21) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of [subsection] subdivision (2) or (4) of section 47-221 for the exclusive use of one or more but fewer than all of the units.

(22) "Master association" means an organization described in section 47-239, whether or not it is also an association described in section 47-243.

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

(24) "Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, public corporation, government, governmental subdivision or agency, instrumentality or any other legal or commercial entity.

(25) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(26) "Proprietary lease" means an agreement with the association pursuant to which a member is entitled to exclusive possession of a

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unit in a cooperative.

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

(28) "Real property" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real property" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

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

(30) "Residential purposes" means use for dwelling or recreational purposes, or both.

(31) "Rule" means a policy, guideline, restriction, procedure or regulation of an association, however denominated, which is adopted by an association pursuant to section [47-261c] 47-261b, as amended by this act, which is not set forth in the declaration or bylaws and which governs the conduct of persons or the use or appearance of property.

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

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title retention contract intended as security for an obligation.

(33) "Special declarant rights" means rights reserved for the benefit of a declarant to (A) complete improvements indicated on surveys and plans filed with the declaration or, in a cooperative, to complete improvements described in the public offering statement pursuant to subdivision (2) of subsection (a) of section 47-264; (B) exercise any development right; (C) maintain sales offices, management offices, signs advertising the common interest community, and models; (D) use easements through the common elements for the purpose of making improvements within the common interest community or within real property which may be added to the common interest community; (E) make the common interest community subject to a master association; (F) merge or consolidate a common interest community with another common interest community of the same form of ownership; (G) appoint or remove any officer of the association or any master association or any executive board member during any period of declarant control; (H) control any construction, design review or aesthetic standards committee or process; (I) attend meetings of the unit owners and, except during an executive session, the executive board; or (J) have access to the records of the association to the same extent as a unit owner.

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

(35) "Unit" means a physical portion of the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to subdivision (5) of subsection (a) of section 47-224, as amended by this act. If a unit in a cooperative is owned by a unit owner or is sold, conveyed, voluntarily

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or involuntarily encumbered or otherwise transferred by a unit owner, the interest in that unit which is owned, sold, conveyed, encumbered or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association's interest in that unit is not thereby affected.

(36) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated until that unit has been conveyed to another person.

Sec. 2. Subdivisions (6) and (7) of subsection (a) of section 47-224 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

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

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

Sec. 3. Subsection (a) of section 47-227 of the general statutes is

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repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) Except for the limited common elements described in [subsections] subdivisions (2) and (4) of section 47-221 and except to the extent a right to allocate a limited common element is reserved pursuant to subsection (c) of this section, the declaration shall specify to which unit or units each limited common element is allocated. An allocation may not be altered without the consent of the unit owners whose units are affected.

Sec. 4. Subsection (d) of section 47-237 of the 2010 supplement to the general statutes, as amended by section 17 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(d) In the case of a condominium or planned community containing any units not having horizontal boundaries described in the declaration, a termination agreement may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or all [the] unit owners consent to the sale.

Sec. 5. Subsection (m) of section 47-237 of the 2010 supplement to the general statutes, as amended by section 17 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(m) If substantially all the units in a common interest community have been destroyed or abandoned or are uninhabitable and the available methods for giving notice under section [47-261b] 47-261c, as amended by this act, of a meeting of unit owners to consider termination under this section will not likely result in receipt of the notice, the executive board or any other interested person may

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commence an action in the Superior Court seeking to terminate the common interest community. During the pendency of the action, the court may issue whatever orders it considers appropriate, including appointment of a receiver. After a hearing, the court may terminate the common interest community or reduce its size pursuant to this section, notwithstanding that eighty per cent of the unit owners did not vote or agree to that action, and may issue any other order the court considers to be in the best interest of the unit owners and persons holding a property interest in the common interest community.

Sec. 6. Subdivision (10) of subsection (a) of section 47-244 of the 2010 supplement to the general statutes, as amended by section 21 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

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

Sec. 7. Subsections (g) and (h) of section 47-244 of the 2010 supplement to the general statutes, as amended by section 21 of public act 09-225, are repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

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

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

(2) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with law;

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

(4) It is not in the association's best interests to [pursue an] take enforcement action.

(h) The executive board's decision under subsection (g) of this section not to [pursue] take enforcement action under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, except that the executive board may not be arbitrary or capricious in taking enforcement action.

Sec. 8. Subsection (g) of section 47-245 of the 2010 supplement to the general statutes, as amended by section 22 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(g) A declaration may provide for the appointment of specified positions on the executive board by either a governmental subdivision or agency or a nonstock corporation exempt from taxation [as a public charity] under 26 USC 501(c)(3) and 26 USC 4940(d)(2), as from time to time amended, during or after the period of declarant control. A declaration may also provide a method for filling vacancies in those specified positions, other than by election by the unit owners, except that, after the period of declarant control, appointed members (1) may not comprise more than one-third of the board, and (2) have no greater authority than any other member of the board.

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Sec. 9. Section 47-247 of the 2010 supplement to the general statutes, as amended by section 23 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) Except in the case of nonresidential common interest communities as provided in section 47-215, if entered into before the executive board elected by the unit owners pursuant to subsection (f) of section 47-245 takes office, the association may terminate without penalty upon not less than ninety days' notice to the other party [] any of the following: (1) Any management, maintenance, operations or employment contract or lease of recreational or parking areas or facilities; or (2) any other contract or lease between the association and a declarant or an affiliate of a declarant; [] or (3) any contract or lease that is not bona fide or was unconscionable or commercially unreasonable to the unit owners at the time entered into under the circumstances then prevailing.

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

Sec. 10. Subdivisions (2) and (3) of subsection (a) of section 47-250 of the 2010 supplement to the general statutes, as amended by section 25 of public act 09-225, are repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(2) An association shall hold a special meeting of unit owners if its president, a majority of the executive board, or unit owners having at least twenty per cent, or any lower percentage specified in the bylaws, of the votes in the association request that the secretary call the meeting. If the association does not notify unit owners of a special

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meeting within fifteen days after the requisite number or percentage of unit owners request the secretary to do so, the requesting members may directly notify [all] the unit owners of the meeting. Only matters described in the meeting notice required by subdivision (3) of this subsection may be considered at a special meeting;

(3) An association shall notify unit owners of the time, date and place of each annual and special meeting of unit owners [meeting] not less than ten days or more than sixty days before the meeting date. Notice may be by any means described in section 47-261c, as amended by this act. The notice of any meeting shall state the time, date and place of the meeting and the items on the agenda, including (A) a statement of the general nature of any proposed amendment to the declaration or bylaws, (B) any budget changes, and (C) any proposal to remove an officer or member of the executive board;

Sec. 11. Subsection (h) of section 47-252 of the 2010 supplement to the general statutes, as amended by section 27 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(h) For the purposes of this chapter, "fraction or percentage", with respect to the unit owners or the votes in the association, means the stated fraction or percentage of unit owners of units to which at least the stated percentage or fraction of all the votes in the association are allocated, unless the provisions of this chapter [provides] provide that the "fraction or percentage" refers to a different group of unit owners or votes.

Sec. 12. Subsection (h) of section 47-255 of the 2010 supplement to the general statutes, as amended by section 29 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

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(h) (1) Any portion of the common interest community for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless (A) the common interest community is terminated, in which case section 47-237, as amended by this act, applies, (B) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety, or (C) eighty per cent of the unit owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves, regardless of whether such excess is the result of the application of a deductible under insurance coverage, is a common expense.

(2) If the entire common interest community is not repaired or replaced, (A) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the common interest community, and (B) except to the extent that other persons will be distributees, (i) the insurance proceeds attributable to units and limited common elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lien holders, as their interests may appear, and (ii) the remainder of the proceeds shall be distributed to all of the unit owners or lien holders, as their interests may appear, in proportion to the common expense liabilities of all of the units.

(3) If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated on the vote as if the unit had been [condemned] acquired by eminent domain under subsection (a) of section 47-206, and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

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Sec. 13. Subsection (l) of section 47-258 of the 2010 supplement to the general statutes, as amended by section 32 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

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

Sec. 14. Subsection (a) of section 47-260 of the 2010 supplement to the general statutes, as amended by section 33 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) An association shall retain the following:

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

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

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

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(4) The association's original or restated organizational documents, if required by law other than this chapter, bylaws and all amendments to [them] the bylaws, and all rules currently in effect;

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

(6) A list of the names and addresses of [its] the association's current executive board members and officers;

(7) The association's most recent annual report delivered to the Secretary of the State, if any;

(8) Financial and other records sufficiently detailed to enable the association to comply with section 47-270, as amended by this act;

(9) Copies of current contracts to which the association is a party;

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

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

Sec. 15. Subsections (a) and (b) of section 47-261b of the 2010 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) At least ten days before adopting, amending or repealing any rule, the executive board shall give all unit owners notice of: (1) [Its] The executive board's intention to adopt, amend or repeal a rule and shall [provide] include with such notice the text of the proposed rule or [the proposed change] amendment, or the text of the rule proposed to be repealed; and (2) [a] the date on which the executive board will

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act on the proposed rule, [or] amendment or repeal after considering comments from unit owners.

(b) Following adoption, amendment or repeal of a rule, the association shall [notify the] give all unit owners notice of its action and [provide] include with such notice a copy of any new or [revised] amended rule.

Sec. 16. Section 47-261c of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) An association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit owner designates, except that the association may also deliver notices by: (1) Hand delivery to each unit owner; (2) hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each unit; (3) electronic means, if the unit owner has given the association an electronic address; or (4) any other method reasonably calculated to provide notice to the unit owner.

(b) Notices required to be given by [section 47-202, subdivision (6) of subsection (e) of section 47-204, sections 47-213a, 47-214 to 47-216, inclusive, 47-218 to 47-219b, inclusive, and 47-222, subsection (e) of section 47-225, subsection (h) of section 47-226 and sections 47-232, 47-235 to 47-237, inclusive, 47-241a, 47-243, 47-244, 47-245, 47-247, 47-248, 47-250 to 47-252, inclusive, 47-254 to 47-258, inclusive, 47-260, 47-261b to 47-261f, inclusive, 47-263, 47-264, 47-270, 47-274 and 47-278] the association under this chapter are effective when sent. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

Sec. 17. Section 47-261d of the 2010 supplement to the general

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statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) Notwithstanding any provision of the declaration or bylaws to the contrary, unit owners present in person or by proxy at any meeting of the unit owners at which a quorum is present, or voting by ballot pursuant to subsection (d) of section 47-252, may remove any member of the executive board [and] or any officer elected by the unit owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, except that: (1) A member appointed by the declarant may not be removed by a vote of the unit [owner vote] owners during the period of declarant control; (2) a member appointed under subsection (g) of section 47-245, as amended by this act, may be removed only by the person that appointed that member; and (3) the unit owners may not consider whether to remove a member of the executive board or an officer elected by the unit owners at a meeting of the unit owners unless that subject was listed in the notice of the meeting or in the notice of the vote by ballot.

(b) At any meeting at which a vote to remove a member of the executive board or an officer is to be taken, the member or officer being considered for removal must have a reasonable opportunity to speak before the vote is taken. If the vote is taken by ballot pursuant to subsection (d) of section 47-252, the member or officer being considered for removal shall be given a reasonable opportunity to deliver information to the unit owners as provided in said subsection.

Sec. 18. Subsections (a) and (b) of section 47-261e of the 2010 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) The executive board, at least annually, shall adopt a proposed budget for the common interest community for consideration by the

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unit owners. Not later than thirty days after the adoption of a proposed budget, the executive board shall provide to all [the] unit owners a summary of the budget, including a statement of the amount of any reserves, and a statement of the basis on which [any] such reserves are calculated and funded. Simultaneously, the board shall set a date not less than ten days or more than sixty days after providing the summary for either a meeting of the unit owners or a vote by ballot without a meeting to consider approval of the budget. If, at that meeting or in the vote by ballot, a majority of all unit owners [,] or any larger number specified in the declaration votes to reject the budget, the budget [is] shall be rejected. [~~; otherwise~~] If, at that meeting or in the vote by ballot, a majority of all unit owners or any larger number specified in the declaration does not vote to reject the budget, the budget [is] shall be approved. The absence of a quorum at such meeting or participating in the vote by ballot shall not affect rejection or approval of the budget. If a proposed budget is rejected, the budget last approved by the unit owners continues until unit owners approve a subsequent budget.

(b) The executive board, at any time, may propose a special assessment. Not later than thirty days after adoption of a proposed special assessment, the executive board shall provide to all unit owners a summary of the proposed special assessment. Unless the declaration or bylaws otherwise provide, if such special assessment, together with all other special and emergency assessments proposed by the executive board in the same calendar year, do not exceed fifteen per cent of the association's last adopted periodic budget for that calendar year, the special assessment is effective without approval of the unit owners. Otherwise, the board shall set a date not less than ten days or more than sixty days after providing the summary for either a meeting of the unit owners or a vote by ballot without a meeting to consider approval of the special assessment. If, at such meeting or in the balloting, a majority of all unit owners [,] or any larger number specified in the

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declaration [] votes to reject the special assessment, the special assessment shall be rejected. [; otherwise] If, at such meeting or in the balloting, a majority of all unit owners or any larger number specified in the declaration does not vote to reject the special assessment, the special assessment shall be approved. The absence of a quorum at such meeting or participating in the vote by ballot shall not affect the rejection or approval of the [budget] special assessment.

Sec. 19. Section 47-261f of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) The following requirements apply to an association's authority under subdivision (4) of subsection (a) of section 47-244 to institute and maintain a proceeding alleging a construction defect with respect to the common interest community, whether by litigation, mediation, arbitration or administratively, against a declarant or an employee, independent contractor or other person directly or indirectly providing labor or materials to a declarant:

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

(2) Subject to subsection (e) of this section, the association may not institute a proceeding against a person until forty-five days after the

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association sends notice of its claim to that person.

(3) During the time period [described] set forth in subdivision (2) of this subsection, the declarant and any other person to which the association gave notice may present to the association a plan to repair or otherwise remedy the construction defects described in the notice. If the association does not receive a timely remediation plan from a person to which it gave notice, or if the association does not accept the terms of any remediation plan submitted, the association may institute a proceeding against the person.

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

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

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

(b) After the time [described] period set forth in subdivision (2) of subsection (a) of this section expires, whether or not the association

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agrees to any remediation plan, a proceeding may be instituted by: (1) The association against a person to which notice was directed which fails to submit a timely remediation plan, the plan of which is not acceptable, or which fails to pursue diligent implementation of that plan; or (2) a unit owner with respect to the owner's unit and any limited common elements assigned to that unit, regardless of any action of the association.

(c) [This section does] The provisions of this section do not preclude the association from making repairs necessary to mitigate damages or to correct any defect that poses a significant and immediate health or safety risk.

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

(e) [This section does] The provisions of this section shall not prevent an association from seeking equitable relief, a remedy in aid of arbitration or a prejudgment remedy under chapter 903a at any time without complying with subdivision (1) or (2) of subsection (a) of this section.

(f) If the time for termination of any period of declarant control occurs and the declarant has failed to comply with subsection (d), (f) or (h) of section 47-245, the limitations set forth in this section [or] and the association's authority to institute litigation shall not apply.

Sec. 20. Section 47-216 of the 2010 supplement to the general statutes, as amended by section 5 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) Except as provided in section 47-217, sections 47-202, 47-204, 47-

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205, 47-206, 47-218, 47-221, 47-222, 47-223, subsections (b), (d), (i) and (j) of section 47-236, sections 47-237, 47-240 [,] and 47-244, subsection (f) of section 47-245, sections 47-250, 47-251, 47-252, 47-253, 47-255, 47-257, 47-258, 47-260, 47-261b, 47-261c, 47-261d, 47-261e, 47-270 and 47-278, as amended by this act, to the extent necessary in construing any of those sections, apply to all common interest communities created in this state before January 1, 1984; but those sections apply only with respect to events and circumstances occurring after January 1, 1984, and do not invalidate existing provisions of the declaration, bylaws or surveys or plans of those common interest communities.

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

Sec. 21. Subsection (i) of section 47-236 of the 2010 supplement to the general statutes, as amended by section 16 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(i) If any provision of this chapter or of the declaration or bylaws of any common interest community created before, on or after January 1, 1984, requires the consent of a person holding a security interest in a unit as a condition to the effectiveness of any amendment to the declaration or bylaws, that consent shall be deemed granted if a refusal to consent in a record is not received by the association within forty-five days after the association delivers notice of the proposed amendment to the holder of the interest or mails the notice to the holder of the interest by certified mail, return receipt requested. The association may rely on the last-recorded security interest of record in delivering or mailing notice to the holder of that interest. Notwithstanding any provision of this section, an amendment to the

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declaration or bylaws that affects the priority of a holder's security interest, other than an amendment regarding the priority of the association's lien authorized by section 47-258, as amended by this act, or the ability of that holder to foreclose its security interest may not be adopted without that holder's consent in a record if the declaration [requires] or bylaws require that consent as a condition to the effectiveness of the amendment.

Sec. 22. Section 47-248 of the 2010 supplement to the general statutes, as amended by section 24 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) The bylaws of the association shall: (1) Provide the number of members of the executive board and the titles of the officers of the association; (2) unless otherwise specified in the declaration, provide for election by either the executive board or the unit owners of a president, treasurer, secretary and any other officers of the association the bylaws specify; (3) specify the qualifications, powers and duties, terms of office and manner of electing and removing executive board members and officers and filling vacancies; (4) specify the powers the executive board or officers may delegate to other persons or to a managing agent; (5) specify the officers who may prepare, execute, certify and record amendments to the declaration on behalf of the association; (6) specify a method for amending the bylaws; (7) contain any provision necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other activities of the association; and (8) provide for any matter required by the law of this state other than this chapter, which is not inconsistent with this chapter, to appear in the bylaws of organizations of the same type as the association.

(b) Subject to the declaration and this chapter, the bylaws may provide for any other necessary or appropriate matters including matters that could be adopted as rules.

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Sec. 23. Subsection (f) of section 47-261b of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(f) An association may adopt rules that affect the use of or behavior in units that may be used for residential purposes, only to:

(1) Implement a provision of the declaration;

(2) Regulate any behavior in or occupancy of a unit which violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners; or

(3) Restrict the leasing of residential units to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders that regularly make loans secured by first mortgages on units in common interest communities or regularly purchase those mortgages, provided no such restriction shall be enforceable unless notice thereof is recorded on the land records of each town in which any part of the common interest community is located. Such notice shall be indexed by the town clerk in the grantor index of such land records in the name of the association.

Sec. 24. Section 47-270 of the 2010 supplement to the general statutes, as amended by section 41 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

(a) Except in the case of a sale in which delivery of a public offering statement is required under either this chapter or chapter 825, or unless exempt under subsection (b) of section 47-262, a unit owner shall furnish to a purchaser or such purchaser's attorney, before the earlier of conveyance or transfer of the right to possession of a unit, a copy of the declaration, other than any surveys and plans, the bylaws, the rules or regulations of the association, and a certificate containing:

(1) A statement disclosing the effect on the proposed disposition of any

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right of first refusal or other restraint on the free alienability of the unit held by the association; (2) a statement setting forth the amount of the periodic common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner; (3) a statement of any other fees payable by the owner of the unit being sold; (4) a statement of any capital expenditures in excess of one thousand dollars approved by the executive board for the current and next succeeding fiscal year; (5) a statement of the amount of any reserves for capital expenditures; (6) the current operating budget of the association; (7) a statement of any unsatisfied judgments against the association and the existence of any pending suits or administrative proceedings in which the association is a party, including foreclosures but excluding other collection matters; (8) a statement of the insurance coverage provided for the benefit of unit owners, including any schedule of standard fixtures, improvements and betterments in the units covered by the association's insurance that the association prepared pursuant to subsection (b) of section 47-255; (9) a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner on sale, condemnation, casualty loss to the unit or the common interest community or termination of the common interest community; (10) in a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real property taxes and interest paid by the association; (11) if the association is unincorporated, the name of the statutory agent for service of process filed with the Secretary of the State pursuant to section 47-244a; (12) a statement describing any pending sale or encumbrance of common elements; (13) a statement disclosing the effect on the unit to be conveyed of any restrictions on the owner's right to use or occupy the unit or to lease the unit to another person; (14) a statement disclosing the number of units whose owners are at least sixty days' delinquent in paying their common charges on a specified date within sixty days of the date of the statement; (15) a

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statement disclosing the number of foreclosure actions brought by the association during the past twelve months and the number of such actions pending on a specified date within sixty days of the date of the statement; and (16) any established maintenance standards adopted by the association pursuant to subsection (e) of section 47-257.

(b) (1) Not later than ten business days after receipt of a request in a record from a unit owner and payment by the unit owner of a fee established by the association that does not exceed one hundred twenty-five dollars plus either five cents for each page of document copies provided by the association pursuant to this section or a flat fee of ten dollars for an electronic version of those documents, for the preparation of the certificate and other documents, the association shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section and any other documents required by this section. [The association shall itemize the actual printing, photocopying and related costs and provide a list of the itemized costs to the unit owner with the certificate and documents.] An additional fee of not more than ten dollars for expedited preparation may be established if the certificate and all required documents are furnished to the unit owner not later than three business days after the request in a record is received by the association. No fee under this subsection may include costs for services provided by an attorney or paralegal.

(2) A unit owner providing a certificate and documents pursuant to subsection (a) of this section is not liable to the purchaser for any erroneous information provided by the association and included in the certificate and documents.

(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate and documents in a timely

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manner, but the purchase contract is voidable by the purchaser until (1) the expiration of five days, excluding Saturdays, Sundays and legal holidays, after the certificate and documents have been delivered to such purchaser or such purchaser's attorney, or seven days, excluding Saturdays, Sundays and legal holidays, after the certificate and documents have been sent by registered or certified mail or mail evidenced by a certificate of mailing to such purchaser or such purchaser's attorney, or (2) conveyance, whichever first occurs.

(d) A dealer who offers a unit which he owns shall, in addition to the material provided to a purchaser or such purchaser's attorney under subsection (a) of this section, furnish to such purchaser or such purchaser's attorney a copy of any public offering statement that the dealer received at the time he purchased his unit.

(e) The association shall, during the month of January in each year, file in the office of the town clerk of the municipality or municipalities where such common interest community is located a certificate setting forth the name and mailing address of the officer of the association or the managing agent from whom a resale certificate may be requested, and shall, thereafter, file such a certificate within thirty days of any change in the name or address of such officer or agent. The town clerk shall record such certificate in the land records.

Sec. 25. Subsection (b) of section 47-250 of the 2010 supplement to the general statutes, as amended by section 25 of public act 09-225, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2010*):

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

(1) Meetings shall be open to the unit owners and to a representative

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

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

(3) Notwithstanding any actions taken by unanimous consent pursuant to subdivision (8) of subsection (b) of this section, during and after the period of declarant control, the executive board shall meet at least two times a year at the common interest community or at a place convenient to the community. Those meetings, and after termination of the period of declarant control, all executive board meetings, shall be at the common interest community or at a place convenient to the community unless the bylaws are amended to vary the location of those meetings.

(4) At each executive board meeting, the executive board shall provide a reasonable opportunity for unit owners to comment

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regarding any matter affecting the common interest community and the association.

(5) Unless the meeting is included in a schedule given to the unit owners or the meeting is called to deal with an emergency, the secretary or other officer specified in the bylaws shall give notice of each executive board meeting to each board member and to the unit owners. The notice shall be given at least [ten] five days before the meeting and shall state the time, date, place and agenda of the meeting, except that notice of a meeting called to adopt, amend or repeal a rule shall be given in accordance with subsection (a) of section 47-261b, as amended by this act.

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

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

(8) Instead of meeting, the executive board may act by unanimous consent as documented in a record authenticated by all its members. The secretary promptly shall give notice to all unit owners of any action taken by unanimous consent.

(9) Even if an action by the executive board is not in compliance

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with this section, it is valid unless set aside by a court. A challenge to the validity of an action of the executive board for failure to comply with this section may not be brought more than sixty days after the minutes of the executive board of the meeting at which the action was taken are approved or the record of that action is distributed to unit owners, whichever is later.

Approved June 8, 2010