



# House of Representatives

General Assembly

**File No. 551**

February Session, 2010

Substitute House Bill No. 5434

*House of Representatives, April 15, 2010*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO THE 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 2010 supplement to the general  
2 statutes, as amended by section 1 of public act 09-225, is repealed and  
3 the following is substituted in lieu thereof (*Effective July 1, 2010*):

4 In the declaration and bylaws, unless specifically provided  
5 otherwise or the context otherwise requires, and in 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 sums attributable to a unit and due [to]  
33 the association pursuant to section 47-257.

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

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

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

46 declaration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

112 (22) "Master association" means an organization described in section  
113 47-239, whether or not it is also an association described in section 47-  
114 243.

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

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

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

131 (26) "Proprietary lease" means an agreement with the association  
132 pursuant to which a member is entitled to exclusive possession of a  
133 unit in a cooperative.

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

138 (28) "Real property" means any leasehold or other estate or interest

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

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

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

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

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

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

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

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

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

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

204 community, the declarant is the owner of any unit created by the  
205 declaration. In a cooperative, the declarant is treated as the owner of  
206 any unit to which allocated interests have been allocated until that unit  
207 has been conveyed to another person.

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

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

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

221 Sec. 3. Subsection (a) of section 47-227 of the general statutes is  
222 repealed and the following is substituted in lieu thereof (*Effective July*  
223 *1, 2010*):

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

231 Sec. 4. Subsection (d) of section 47-237 of the 2010 supplement to the  
232 general statutes, as amended by section 17 of public act 09-225, is  
233 repealed and the following is substituted in lieu thereof (*Effective July*  
234 *1, 2010*):

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

241 Sec. 5. Subsection (m) of section 47-237 of the 2010 supplement to  
242 the general statutes, as amended by section 17 of public act 09-225, is  
243 repealed and the following is substituted in lieu thereof (*Effective July*  
244 *1, 2010*):

245 (m) If substantially all the units in a common interest community  
246 have been destroyed or abandoned or are uninhabitable and the  
247 available methods for giving notice under section [47-261b] 47-261c, as  
248 amended by this act, of a meeting of unit owners to consider  
249 termination under this section will not likely result in receipt of the  
250 notice, the executive board or any other interested person may  
251 commence an action in the Superior Court seeking to terminate the  
252 common interest community. During the pendency of the action, the  
253 court may issue whatever orders it considers appropriate, including  
254 appointment of a receiver. After a hearing, the court may terminate the  
255 common interest community or reduce its size pursuant to this section,  
256 notwithstanding that eighty per cent of the unit owners did not vote or  
257 agree to that action, and may issue any other order the court considers  
258 to be in the best interest of the unit owners and persons holding a  
259 property interest in the common interest community.

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

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

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

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

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

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

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

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

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

295 Sec. 8. Subsection (g) of section 47-245 of the 2010 supplement to the  
296 general statutes, as amended by section 22 of public act 09-225, is  
297 repealed and the following is substituted in lieu thereof (*Effective July*  
298 *1, 2010*):

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

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

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

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

330 Sec. 10. Subdivisions (2) and (3) of subsection (a) of section 47-250 of  
331 the 2010 supplement to the general statutes, as amended by section 25

332 of public act 09-225, are repealed and the following is substituted in  
333 lieu thereof (*Effective July 1, 2010*):

334 (2) An association shall hold a special meeting of unit owners if its  
335 president, a majority of the executive board, or unit owners having at  
336 least twenty per cent, or any lower percentage specified in the bylaws,  
337 of the votes in the association request that the secretary call the  
338 meeting. If the association does not notify unit owners of a special  
339 meeting within fifteen days after the requisite number or percentage of  
340 unit owners request the secretary to do so, the requesting members  
341 may directly notify [all] the unit owners of the meeting. Only matters  
342 described in the meeting notice required by subdivision (3) of this  
343 subsection may be considered at a special meeting;

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

353 Sec. 11. Subsection (h) of section 47-252 of the 2010 supplement to  
354 the general statutes, as amended by section 27 of public act 09-225, is  
355 repealed and the following is substituted in lieu thereof (*Effective July*  
356 *1, 2010*):

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

364 Sec. 12. Subsection (h) of section 47-255 of the 2010 supplement to  
365 the general statutes, as amended by section 29 of public act 09-225, is  
366 repealed and the following is substituted in lieu thereof (*Effective July*  
367 *1, 2010*):

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

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

393 (3) If the unit owners vote not to rebuild any unit, that unit's  
394 allocated interests are automatically reallocated on the vote as if the  
395 unit had been [condemned] acquired by eminent domain under  
396 subsection (a) of section 47-206, and the association promptly shall

397 prepare, execute and record an amendment to the declaration  
398 reflecting the reallocations.

399 Sec. 13. Subsection (l) of section 47-258 of the 2010 supplement to the  
400 general statutes, as amended by section 32 of public act 09-225, is  
401 repealed and the following is substituted in lieu thereof (*Effective July*  
402 *1, 2010*):

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

411 Sec. 14. Subsection (a) of section 47-260 of the 2010 supplement to  
412 the general statutes, as amended by section 33 of public act 09-225, is  
413 repealed and the following is substituted in lieu thereof (*Effective July*  
414 *1, 2010*):

415 (a) An association shall retain the following:

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

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

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

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

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

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

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

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

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

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

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

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

449 (a) At least ten days before adopting, amending or repealing any  
450 rule, the executive board shall give all unit owners notice of: (1) [Its]  
451 The executive board's intention to adopt, amend or repeal a rule and  
452 shall [provide] include with such notice the text of the proposed rule  
453 or [the proposed change] amendment, or the text of the rule proposed  
454 to be repealed; and (2) [a] the date on which the executive board will  
455 act on the proposed rule, [or] amendment or repeal after considering  
456 comments from unit owners.

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

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

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

473 (b) Notices required to be given by [section 47-202, subdivision (6)  
474 of subsection (e) of section 47-204, sections 47-213a, 47-214 to 47-216,  
475 inclusive, 47-218 to 47-219b, inclusive, and 47-222, subsection (e) of  
476 section 47-225, subsection (h) of section 47-226 and sections 47-232, 47-  
477 235 to 47-237, inclusive, 47-241a, 47-243, 47-244, 47-245, 47-247, 47-248,  
478 47-250 to 47-252, inclusive, 47-254 to 47-258, inclusive, 47-260, 47-261b  
479 to 47-261f, inclusive, 47-263, 47-264, 47-270, 47-274 and 47-278] the  
480 association under this chapter are effective when sent. The  
481 ineffectiveness of a good faith effort to deliver notice by an authorized  
482 means does not invalidate action taken at or without a meeting.

483 Sec. 17. Section 47-261d of the 2010 supplement to the general  
484 statutes is repealed and the following is substituted in lieu thereof  
485 (*Effective July 1, 2010*):

486 (a) Notwithstanding any provision of the declaration or bylaws to  
487 the contrary, unit owners present in person or by proxy at any meeting  
488 of the unit owners at which a quorum is present, or voting by ballot

489 pursuant to subsection (d) of section 47-252, may remove any member  
490 of the executive board [and] or any officer elected by the unit owners,  
491 with or without cause, if the number of votes cast in favor of removal  
492 exceeds the number of votes cast in opposition to removal, except that:  
493 (1) A member appointed by the declarant may not be removed by a  
494 vote of the unit [owner vote] owners during the period of declarant  
495 control; (2) a member appointed under subsection (g) of section 47-245<sub>2</sub>  
496 as amended by this act, may be removed only by the person that  
497 appointed that member; and (3) the unit owners may not consider  
498 whether to remove a member of the executive board or an officer  
499 elected by the unit owners at a meeting of the unit owners unless that  
500 subject was listed in the notice of the meeting or in the notice of the  
501 vote by ballot.

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

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

512 (a) The executive board, at least annually, shall adopt a proposed  
513 budget for the common interest community for consideration by the  
514 unit owners. Not later than thirty days after the adoption of a  
515 proposed budget, the executive board shall provide to all [the] unit  
516 owners a summary of the budget, including a statement of the amount  
517 of any reserves, and a statement of the basis on which [any] such  
518 reserves are calculated and funded. Simultaneously, the board shall set  
519 a date not less than ten days or more than sixty days after providing  
520 the summary for either a meeting of the unit owners or a vote by ballot  
521 without a meeting to consider approval of the budget. If, at that

522 meeting or in the vote by ballot, a majority of all unit owners [ ] or any  
523 larger number specified in the declaration votes to reject the budget,  
524 the budget [is] shall be rejected. [; otherwise] If, at that meeting or in  
525 the vote by ballot, a majority of all unit owners or any larger number  
526 specified in the declaration does not vote to reject the budget, the  
527 budget [is] shall be approved. The absence of a quorum at such  
528 meeting or participating in the vote by ballot shall not affect rejection  
529 or approval of the budget. If a proposed budget is rejected, the budget  
530 last approved by the unit owners continues until unit owners approve  
531 a subsequent budget.

532 (b) The executive board, at any time, may propose a special  
533 assessment. Not later than thirty days after adoption of a proposed  
534 special assessment, the executive board shall provide to all unit owners  
535 a summary of the proposed special assessment. Unless the declaration  
536 or bylaws otherwise provide, if such special assessment, together with  
537 all other special and emergency assessments proposed by the executive  
538 board in the same calendar year, do not exceed fifteen per cent of the  
539 association's last adopted periodic budget for that calendar year, the  
540 special assessment is effective without approval of the unit owners.  
541 Otherwise, the board shall set a date not less than ten days or more  
542 than sixty days after providing the summary for either a meeting of the  
543 unit owners or a vote by ballot without a meeting to consider approval  
544 of the special assessment. If, at such meeting or in the balloting, a  
545 majority of all unit owners [ ] or any larger number specified in the  
546 declaration [ ] votes to reject the special assessment, the special  
547 assessment shall be rejected. [; otherwise] If, at such meeting or in the  
548 balloting, a majority of all unit owners or any larger number specified  
549 in the declaration does not vote to reject the special assessment, the  
550 special assessment shall be approved. The absence of a quorum at such  
551 meeting or participating in the vote by ballot shall not affect the  
552 rejection or approval of the [budget] special assessment.

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

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

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

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

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

585 (4) If the association receives one or more timely remediation plans,  
586 the executive board shall consider promptly those remediation plans  
587 and notify the persons to which it directed notice whether the  
588 remediation plan is acceptable as presented, acceptable with stated

589 conditions, or not accepted.

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

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

603 (b) After the time [described] period set forth in subdivision (2) of  
604 subsection (a) of this section expires, whether or not the association  
605 agrees to any remediation plan, a proceeding may be instituted by: (1)  
606 The association against a person to which notice was directed which  
607 fails to submit a timely remediation plan, the plan of which is not  
608 acceptable, or which fails to pursue diligent implementation of that  
609 plan; or (2) a unit owner with respect to the owner's unit and any  
610 limited common elements assigned to that unit, regardless of any  
611 action of the association.

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

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2010	47-202
Sec. 2	July 1, 2010	47-224(a)(6) and (7)
Sec. 3	July 1, 2010	47-227(a)
Sec. 4	July 1, 2010	47-237(d)
Sec. 5	July 1, 2010	47-237(m)
Sec. 6	July 1, 2010	47-244(a)(10)
Sec. 7	July 1, 2010	47-244(g) and (h)
Sec. 8	July 1, 2010	47-245(g)
Sec. 9	July 1, 2010	47-247
Sec. 10	July 1, 2010	47-250(a)(2) and (3)
Sec. 11	July 1, 2010	47-252(h)
Sec. 12	July 1, 2010	47-255(h)
Sec. 13	July 1, 2010	47-258(l)
Sec. 14	July 1, 2010	47-260
Sec. 15	July 1, 2010	47-261b(a) and (b)
Sec. 16	July 1, 2010	47-261c
Sec. 17	July 1, 2010	47-261d
Sec. 18	July 1, 2010	47-261e(a) and (b)
Sec. 19	July 1, 2010	47-261f

**Statement of Legislative Commissioners:**

In section 15(a)(1), language concerning text to be included in the notice was rewritten for clarity.

**JUD** Joint Favorable Subst.-LCO

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill makes technical and minor changes affecting private parties which have no fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis**

**sHB 5434**

***AN ACT CONCERNING MINOR AND TECHNICAL CHANGES TO  
THE COMMON INTEREST OWNERSHIP ACT.***

**SUMMARY:**

This bill makes minor and technical revisions to the Common Interest Ownership Act, which governs condominiums and cooperative projects formed on or after January 1, 1984.

EFFECTIVE DATE: July 1, 2010

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/29/2010)