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## **OLR Bill Analysis**

### **HB 6234 (as amended by House "A")\***

#### ***AN ACT CONCERNING ELECTIONS OF THE EXECUTIVE BOARDS OF DIRECTORS OF CONDOMINIUM UNIT OWNERS' ASSOCIATIONS AND CHANGES TO THE COMMON INTEREST OWNERSHIP ACT.***

#### **SUMMARY:**

This bill makes the following changes to the Common Interest Ownership Act (CIOA). It:

1. prohibits an (a) executive board member of a residential common interest community association or master association (representing one or more common interest communities) or (b) individual seeking election to such board, from accepting any item of value based on the understanding that doing so will influence the member's or candidate's vote, official action, or judgment; and also prohibits someone from providing or offering something of value to these people;
2. prohibits a community association manager or person providing association management services from campaigning for any person seeking election to an executive board;
3. requires an association to hold a hearing before bringing an action or instituting a proceeding against a unit owner other than a declarant;
4. allows a unit owner, other than a declarant, to request such a hearing to enforce a right or obligation against an association or another unit owner; and
5. exempts certain buildings from the insurance requirements for units divided by horizontal or vertical boundaries.

The bill also prohibits a contract between a common interest

community association and an individual providing association management services from including any clause or agreement that indemnifies or holds the association manager harmless against any liability for loss or damage resulting from the manger's negligence or willful misconduct.

\*House Amendment "A" removes provisions in the original file (1) prohibiting a community association manager or person providing association management services from soliciting proxies from unit owners and (2) eliminating a unit owners' association's right to assess a specific unit owner for a common expense caused by certain actions by the unit owner, the owner's tenant, or the owner's or tenant's guest or invitee. It also adds provisions (1) requiring an association to hold a hearing before bringing an action or instituting a proceeding against a unit owner other than a declarant, (2) allowing a unit owner, other than a declarant, to request such a hearing, and (3) exempting certain buildings from the insurance requirements for units divided by horizontal or vertical boundaries.

EFFECTIVE DATE: October 1, 2011

## **HEARING REQUIREMENTS FOR ASSOCIATIONS SUBJECT TO CIOA**

### ***Requirements***

Current law allows anyone subject to CIOA to bring a court action to enforce a right or obligation imposed by CIOA or an association's declaration or bylaws. Parties to a dispute arising under CIOA, the declaration, or bylaws may agree to resolve the dispute by binding or nonbinding alternative dispute resolution under certain conditions.

The bill requires an association, before bringing an action or instituting a proceeding against a unit owner other than a declarant (developer), to schedule a hearing during a regular or special executive board meeting. The association must notify the unit owner of the hearing date, time, and location at least 10 days in advance by certified mail, return receipt requested, and regular mail. The notice must also state the nature of the claim against the unit owner.

The bill gives the unit owner the right to give oral and written testimony at the hearing, either in person or through a representative. The executive board must consider this testimony when deciding whether to bring an action or institute a proceeding against the unit owner.

Within 30 days after the hearing, the association must notify the unit owner of the executive board's decision by certified mail, return receipt requested, and regular mail.

The bill exempts from this hearing requirement an action brought by an association against a unit owner to (1) prevent immediate and irreparable harm or (2) foreclose a lien for an assessment attributable to a unit or related fines imposed against a unit owner.

#### ***Hearings Requested By A Unit Owner***

The bill allows a unit owner, other than a declarant, to submit a written request to the association for a hearing before the executive board. The unit owner may do this to enforce a right or obligation imposed by CIOA, the declaration, or bylaws against the association or another unit owner other than a declarant. The written request must state the claim's nature. The association must schedule the hearing within 30 days of receiving the request. The hearing must be held during a regular or special executive board meeting within 45 days of receiving the request. The association must notify the unit owner of the hearing date, time, and location at least 10 days in advance by certified mail, return receipt requested, and regular mail. Within 30 days after the hearing, the association must notify the unit owner of the executive board's decision in the same manner.

The bill specifies that the association's failure to comply with these hearing requirements does not affect a unit owner's right to bring an action to enforce a right or obligation imposed by CIOA, the declaration, or bylaws.

#### **INSURANCE REQUIREMENTS FOR UNITS DIVIDED BY VERTICAL OR HORIZONTAL BOUNDARIES**

Current law requires an association to obtain property insurance for buildings in the common interest community that contain units with horizontal (i.e., stacked units) or vertical boundaries (i.e., side-by-side units) that comprise or are located within common walls between units. The insurance on such units must include coverage for improvements unit owners installed unless the (1) declaration limits the association's authority to do so or (2) executive board decides not to insure them after giving notice and an opportunity for unit owners to comment.

The bill specifies that these requirements do not apply to a building in a common interest community with up to two units divided by a single horizontal or vertical boundary unless the common interest community voluntarily chooses to comply.

By law, for common interest communities containing more than 12 units, unless the association insures all improvements and betterments, the association must:

1. prepare and maintain a schedule of the standard fixtures, improvements, and betterments in the units, including any standard wall, floor, and ceiling coverings covered by the association's insurance policy;
2. provide the schedule at least annually to the unit owners to enable them to coordinate their homeowners insurance coverage with the association's insurance policy; and
3. include the schedule in the resale certificate required by law.

## **BACKGROUND**

### ***Community Association Manager Contracts***

The law requires a contract between a residential common interest community association and an individual providing association management services to contain certain provisions to be valid and enforceable. They must be in writing and (1) require a community association manager to be registered with the Department of Consumer Protection and covered by a fidelity bond; (2) prohibit the

community association manager, without the written approval of an officer the association designates, from (a) issuing checks on the association's behalf, (b) transferring funds exceeding an amount determined by the association, or (c) entering into a contract binding the association exceeding a specific amount, except in an emergency; and (3) prohibit the contract from being sold or assigned to another person without the approval of a majority of the association's executive board.

***Common Interest Community***

A "common interest community" includes condominiums, cooperatives, and other property described in a declaration under which a person, by virtue of owning a unit, is obligated to pay (1) real property taxes on, (2) insurance premiums on, (3) for maintenance of, (4) for improvement of, or (5) for services or expenses related to, common elements or real property other than that individually owned unit described in the declaration (CGS § 47-202).

***Common Interest Ownership Act***

Generally, CIOA applies to common interest communities created in Connecticut on or after January 1, 1984. However, certain provisions of CIOA, to the extent necessary to construe these provisions, apply to common interest communities created in Connecticut before January 1, 1984, but only with respect to events and circumstances that occur after January 1, 1984.

Condominiums created before January 1, 1984 can amend their governing instruments (declaration, bylaws, survey, or plans) to conform to portions of CIOA that do not automatically apply.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable  
Yea 18 Nay 0 (02/08/2011)

Judiciary Committee

Joint Favorable

Yea 37 Nay 0 (04/14/2011)