



House of Representatives

General Assembly

File No. 9

January Session, 2011

House Bill No. 6234

House of Representatives, February 22, 2011

The Committee on Insurance and Real Estate reported through REP. MEGNA of the 97th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING ELECTIONS OF THE EXECUTIVE BOARDS
OF DIRECTORS OF CONDOMINIUM UNIT OWNERS' ASSOCIATIONS
AND 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 47-245 of the general statutes is amended by
2 adding subsections (j) and (k) as follows (*Effective October 1, 2011*):

3 (NEW) (j) No person shall provide or offer to any executive board
4 member or a person seeking election as an executive board member,
5 and no executive board member or person seeking election as an
6 executive board member shall accept, any item of value based on any
7 understanding that the vote, official action or judgment of such
8 member or person seeking election would be or has been influenced
9 thereby.

10 (NEW) (k) No managing agent of an association or person
11 providing association management services to such association shall
12 solicit proxies from any unit owners or campaign for any person

13 seeking election as an executive board member.

14 Sec. 2. Section 47-239 of the general statutes is amended by adding
15 subsection (f) as follows (*Effective October 1, 2011*):

16 (NEW) (f) No person shall provide or offer to any member of the
17 master association's executive board or a person seeking election as a
18 member of the master association's executive board, and no member of
19 the master association's executive board or a person seeking election as
20 a member of the master association's executive board shall accept, any
21 item of value based on any understanding that the vote, official action
22 or judgment of such member or person seeking election would be or
23 has been influenced thereby.

24 Sec. 3. Section 20-458 of the general statutes is repealed and the
25 following is substituted in lieu thereof (*Effective October 1, 2011*):

26 (a) No contract between a person contracting to provide association
27 management services and an association which provides for the
28 management of the association shall be valid or enforceable unless the
29 contract is in writing and:

30 (1) Provides that the person contracting to provide management
31 services shall be registered as provided in sections 20-450 to 20-462,
32 inclusive, and shall obtain a bond as provided in section 20-460; and

33 (2) Provides that the person contracting to provide management
34 services shall not issue a check on behalf of the association or transfer
35 moneys exceeding a specified amount determined by the association
36 without the written approval of an officer designated by the
37 association; and

38 (3) Provides that the person contracting to provide management
39 services shall not enter into any contract binding the association
40 exceeding a specified amount determined by the association, except in
41 the case of an emergency, without the written approval of an officer
42 designated by the association.

43 (b) No contract to provide management services [may be] shall:

44 (1) Be sold or assigned to another person without the approval of a
45 majority of the executive board of the association; or

46 (2) Include any clause, covenant or agreement that indemnifies or
47 holds harmless the person contracting to provide management services
48 from or against any liability for loss or damage resulting from such
49 person's negligence or intentional acts or omissions.

50 Sec. 4. Subsection (e) of section 47-257 of the general statutes is
51 repealed and the following is substituted in lieu thereof (*Effective*
52 *October 1, 2011*):

53 (e) If any common expense is caused by the wilful misconduct [,
54 failure to comply with a written maintenance standard promulgated
55 by the association] or gross negligence of any unit owner, [or tenant or
56 a guest or invitee of a unit owner or tenant,] the association may, after
57 notice and hearing, assess the portion of that common expense in
58 excess of any insurance proceeds received by the association under its
59 insurance policy, whether that portion results from the application of a
60 deductible or otherwise, exclusively against that owner's unit.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	47-245
Sec. 2	October 1, 2011	47-239
Sec. 3	October 1, 2011	20-458
Sec. 4	October 1, 2011	47-257(e)

INS *Joint Favorable*

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.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill impacts non-governmental entities and therefore has no fiscal impact upon the state or municipalities.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**HB 6234*****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 soliciting proxies from unit owners or campaigning for any person seeking election to an executive board; and
3. eliminates 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.

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 intentional actions.

EFFECTIVE DATE: October 1, 2011

ASSESSMENTS

Under current law, an association can, after notice and hearing, assess a specific unit owner for the portion of certain common expenses above any insurance proceeds the association received, whether or not that portion results from the application of a deductible. Currently, this applies to any common expense caused by the (1) unit owner's willful misconduct, gross negligence, or failure to comply with a written maintenance standard the association adopts or (2) the willful misconduct, gross negligence, or failure to comply with a written maintenance standard of any unit owner's tenant or the owner's or tenant's guest or invitee.

The bill excludes from this right damage caused by the (1) failure to comply with a written maintenance standard the association adopts or (2) willful misconduct or gross negligence of any unit owner's tenant or the owner's or tenant's guest or invitee.

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 in order 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 for (1) real property taxes on, (2) insurance premiums on, (3) maintenance of, (4) improvement of, or (5) 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)