



# OLR RESEARCH REPORT

September 2, 2011

2011-R-0315

## **COMMON INTEREST OWNERSHIP ACT - APPROVAL OF BUDGETS AND CAPITAL EXPENSES**

By: James Orlando, Associate Analyst

You asked about recent changes regarding the process for condominium associations to approve budgets or capital expenses.

### **SUMMARY**

In 2009, the legislature made numerous changes to the Common Interest Ownership Act (CIOA). These included changes to the process for approving budgets and special assessments (which often involve capital improvement projects). Most of the changes in this act (PA 09-225) were effective July 1, 2010. In 2010, the legislature made minor and technical changes to these budgeting and assessment provisions (PA 10-186).

The default rule under CIOA is that annual budgets or special assessments are approved unless a majority of unit owners reject them (this means a majority of all unit owners, not just a majority of those participating in the vote). The association's declaration can provide for a larger number of unit owners needed to reject a budget or assessment. CIOA does not require that unit owners vote on special assessments that are small relative to the association's budget or that are needed in an emergency.

PA 09-225 also made changes to the process for executive board approval of certain loans, which could be used for capital expenses. It generally requires a majority vote to approve loan agreements that assign the right to future income as security for the loan.

Generally, CIOA applies to condominiums and other 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 that date. These provisions do not invalidate the community's existing declarations, bylaws, or surveys or plans (CGS § [47-216](#)). PA 10-186 added to the list of CIOA provisions which automatically apply to older common interest communities in this manner. The added provisions included, among others, CIOA's provisions on approval of budgets, special assessments, and loans, discussed below.

## **PROCESS FOR APPROVING BUDGETS, SPECIAL ASSESSMENTS, AND LOANS UNDER CIOA**

### ***Budget Approval***

PA 09-225 required the executive board, at least annually, to adopt a proposed budget for the common interest community for consideration by the unit owners. As under prior law, within 30 days after adopting a proposed budget, the executive board must provide a summary to all unit owners. The act required the summary to include any reserves and a statement of the basis on which reserves are calculated and funded. It also required the board to simultaneously set a date for a unit owner's meeting or vote by ballot without a meeting that is within 10 to 60 days after providing the summary to the unit owners. Previously, the board had to set a date for a unit owner's meeting to consider ratification within 14 to 30 days after hand delivering or mailing the summary.

As under prior law, unless a majority of all unit owners or any larger number specified in the declaration votes to reject the budget, it is ratified, whether or not a quorum is present. If a proposed budget is rejected, the last ratified budget continues until unit owners ratify a subsequent budget (CGS § [47-261e](#)).

### ***Special Assessments***

PA 09-225 authorized the executive board to propose a special assessment at any time. Under the act, within 30 days after adopting a proposed special assessment, the executive board must provide all unit owners a summary of the assessment. Unless the declaration or bylaws provide otherwise, if the special assessment, together with all other special and emergency assessments the board proposed in the same calendar year, do not exceed 15% of the association's last adopted

periodic budget for that calendar year, the special assessment is effective without unit owner approval. Otherwise, the board must set a date for the unit owners to decide whether to approve the assessment, either at a unit owner's meeting or by ballot without a meeting within 10 to 60 days after providing a summary.

Under the act, the assessment is approved unless a majority of all unit owners, or any larger number the declaration specifies, votes to reject it. The absence of a quorum at the meeting or participating in the vote by ballot does not affect the budget's approval or rejection (CGS § [47-261e](#)).

**Emergency Special Assessments.** PA 09-225 allowed a special assessment to become effective immediately if the executive board determines by a two-thirds vote that it is necessary to respond to an emergency and notice of the emergency assessment is provided promptly to all unit owners. The board must spend emergency assessment receipts only for the purposes described in its vote (CGS § [47-261e](#)).

### ***Loan Agreements***

By law, notwithstanding any provision of the declaration or bylaws to the contrary, at least 14 days before entering into any loan agreement on the association's behalf, the executive board must:

1. disclose to all unit owners the loan's amount, terms, and estimated effect on any common expense assessment and
2. afford the unit owners a reasonable opportunity to submit comments to the executive board regarding the loan.

PA 09-225 also required that, unless prohibited or otherwise limited in the declaration, if the executive board proposes to enter into a loan agreement on the association's behalf and to assign its right to future income as security for the loan, then owners of units to which at least a majority of the votes in the association are allocated, or any larger percentage stated in the declaration, must vote in favor of or agree to such assignment (CGS § [47-261e](#)).

JO:ro