



House of Representatives

General Assembly

File No. 548

February Session, 2012

Substitute House Bill No. 5536

House of Representatives, April 19, 2012

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.

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

1 Section 1. Subsection (a) of section 20-452 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2012*):

4 (a) Any person seeking a certificate of registration shall apply to the
5 department in writing, on a form provided by the department. Such
6 application shall include the applicant's name, residence address,
7 business address, business telephone number, a question as to whether
8 the applicant has been convicted of a felony in any state or jurisdiction
9 and such other information as the department may require. On and
10 after October 1, 2012, any person seeking an initial certificate of
11 registration shall submit to a request by the commissioner for a state
12 and national criminal history records check. No registration shall be

13 issued unless the commissioner has received the results of such
14 records check.

15 Sec. 2. Section 20-453 of the general statutes is repealed and the
16 following is substituted in lieu thereof (*Effective October 1, 2012*):

17 (a) Upon receipt of a completed application and the appropriate
18 fees, the department, upon authorization of the commission, shall: (1)
19 Issue and deliver to the applicant a certificate of registration; or (2)
20 refuse to issue the certificate. The commission may suspend, revoke or
21 refuse to issue or renew any certificate issued under sections 20-450 to
22 20-462, inclusive, as amended by this act, or may place a registrant on
23 probation or issue a letter of reprimand for any of the reasons stated in
24 section 20-456, as amended by this act. No application for the
25 reinstatement of a certificate which has been revoked shall be accepted
26 by the department within one year after the date of such revocation.

27 (b) Any person issued an initial certificate of registration on or after
28 October 1, 2012, shall, not later than one year following the date of
29 issuance of such certificate, successfully complete a nationally
30 recognized course on community association management and pass
31 the National Board of Certification for Community Association
32 Managers' Certified Manager of Community Associations
33 examination, or a similar examination as may be prescribed by the
34 Commissioner of Consumer Protection in regulations adopted
35 pursuant to subsection (d) of this section.

36 (c) Any person who is a holder of a certificate of registration issued
37 prior to October 1, 2012, who has held such certificate for (1) less than
38 ten years shall, on or before October 1, 2014, successfully complete a
39 nationally recognized course on community association management
40 and pass the National Board of Certification for Community
41 Association Managers' Certified Manager of Community Associations
42 examination, or a similar examination as may be prescribed by the
43 Commissioner of Consumer Protection in regulations adopted
44 pursuant to subsection (d) of this section, or (2) ten years or more shall,
45 on or before October 1, 2014, successfully complete a nationally

46 recognized course on community association management.

47 (d) The department, with the advice and assistance of the
48 commission, shall adopt regulations, in accordance with chapter 54,
49 concerning any examination required for certification under this
50 chapter and the approval of schools, institutions or organizations
51 offering courses in current practices and laws concerning community
52 association management and the content of such courses. Such
53 regulations shall include, but not be limited to: (1) Specifications for
54 meeting the educational requirements prescribed in this section; and
55 (2) exemptions from the educational requirements for reasons of health
56 or instances of individual hardship. In adopting such regulations, the
57 department may not disapprove a school, institution or organization
58 that offers an examination or courses in current practices and laws
59 concerning community association management solely because its
60 examination or courses are offered or taught by electronic means, nor
61 may the department disapprove an examination or course solely
62 because it is offered or taught by electronic means.

63 Sec. 3. Section 20-456 of the general statutes is repealed and the
64 following is substituted in lieu thereof (*Effective October 1, 2012*):

65 (a) The commission may revoke, suspend or refuse to issue or renew
66 any certificate of registration as a community association manager or
67 place a registrant on probation or issue a letter of reprimand for: (1)
68 Making any material misrepresentation; (2) making any false promise
69 of a character likely to influence, persuade or induce; (3) failing, within
70 a reasonable time, to account for or remit any moneys coming into his
71 possession which belong to others; (4) conviction in a court of
72 competent jurisdiction of this or any other state of forgery,
73 embezzlement, obtaining money under false pretenses, larceny,
74 extortion, conspiracy to defraud, or other like offense or offenses,
75 provided suspension or revocation under this subdivision shall be
76 subject to the provisions of section 46a-80; (5) commingling funds of
77 others in an escrow or trustee account; (6) commingling funds of
78 different associations; (7) any act or conduct which constitutes

79 dishonest, fraudulent or improper dealings; or (8) a violation of any
80 provision of sections 20-450 to 20-462, inclusive, as amended by this
81 act, including, but not limited to, failure to comply with the
82 educational requirements prescribed in section 20-453, as amended by
83 this act, or any regulation adopted under section 20-461.

84 (b) The commission shall not revoke or suspend any certificate of
85 registration except upon notice and hearing in accordance with chapter
86 54.

87 Sec. 4. Subsection (d) of section 20-457 of the general statutes is
88 repealed and the following is substituted in lieu thereof (*Effective*
89 *October 1, 2012*):

90 (d) All certificates issued under the provisions of sections 20-450 to
91 20-462, inclusive, as amended by this act, shall expire annually on the
92 thirty-first day of January. A holder of a certificate of registration who
93 seeks to renew his or her certificate shall, when filing an application for
94 renewal of the certificate, submit documentation to the department
95 which establishes that he or she has passed any examination and
96 completed any educational coursework, as the case may be, required
97 for certification under this chapter. The fee for renewal of a certificate
98 shall be two hundred dollars.

99 Sec. 5. Section 20-319 of the general statutes is repealed and the
100 following is substituted in lieu thereof (*Effective October 1, 2012*):

101 (a) The commission shall authorize the Department of Consumer
102 Protection to issue an annual renewal license to any applicant who
103 possesses the qualifications specified in and otherwise has complied
104 with the provisions of this chapter and any regulation adopted under
105 this chapter. The commission shall authorize said department to issue
106 an annual renewal of a real estate broker's license to any entity licensed
107 pursuant to subsection (b) of section 20-312, provided such entity: (1)
108 Was so licensed as of September 30, 2005, notwithstanding the fact
109 such entity does not meet the requirements for publicly traded
110 corporations required by subdivision (3) of subsection (b) of section 20-

111 312, or (2) changes its designated real estate broker pursuant to
112 subsection (c) of section 20-312.

113 (b) There is hereby established an annual renewal license to be
114 issued by the Department of Consumer Protection. Persons licensed in
115 accordance with the provisions of this chapter shall fulfill a continuing
116 education requirement. Applicants for an annual renewal license for
117 real estate brokers or real estate salespersons shall, in addition to the
118 other requirements imposed by the provisions of this chapter, in any
119 even-numbered year, submit proof of compliance with the continuing
120 education requirements of this subsection to the commission,
121 accompanied by an eight-dollar processing fee. The continuing
122 education requirement may be satisfied by successful completion of
123 any of the following during the two-year period preceding such
124 renewal: (1) A course or courses, approved by the commission, of
125 continuing education in current real estate practices and licensing
126 laws, including, but not limited to, practices and laws concerning
127 common interest communities, consisting of not less than twelve hours
128 of classroom study; or (2) a written examination prepared and
129 administered by either the Department of Consumer Protection, or by
130 a national testing service approved by the department, which
131 demonstrates a knowledge of current real estate practices and licensing
132 laws; or (3) equivalent continuing educational experience or study as
133 determined by regulations adopted pursuant to subsection (d) of this
134 section. An applicant for examination under subdivision (2) of this
135 subsection shall pay the required examination fee to the national
136 testing service, if administered by such testing service, or to the
137 Department of Consumer Protection, if administered by the
138 department.

139 (c) If the commission refuses to grant an annual renewal license, the
140 licensee or applicant, upon written notice received as provided for in
141 this chapter, may have recourse to any of the remedies provided by
142 sections 20-314 and 20-322.

143 (d) The Commissioner of Consumer Protection, in consultation with

144 the commission, shall adopt regulations, in accordance with chapter
145 54, concerning the approval of schools, institutions or organizations
146 offering courses in current real estate practices and licensing laws,
147 including, but not limited to, practices and laws concerning common
148 interest communities, and the content of such courses. Such
149 regulations shall include, but not be limited to: (1) Specifications for
150 meeting equivalent continuing educational experience or study; (2)
151 exceptions from continuous education requirements for reasons of
152 health or instances of individual hardship. No school, institution or
153 organization that offers a course in current real estate practices and
154 licensing laws may be disapproved solely because its courses are
155 offered or taught by electronic means, and no course may be
156 disapproved solely because it is offered or taught by electronic means.

157 Sec. 6. Section 47-243 of the general statutes is repealed and the
158 following is substituted in lieu thereof (*Effective October 1, 2012*):

159 A unit owners' association shall be organized no later than the date
160 the first unit in the common interest community is conveyed. The
161 membership of the association at all times shall consist exclusively of
162 all unit owners or, following termination of the common interest
163 community, of all former unit owners entitled to distributions of
164 proceeds under section 47-237 or their heirs, successors or assigns. The
165 association shall have an executive board. The association shall be
166 organized as a business or nonstock corporation, trust, partnership or
167 unincorporated association, except that on and after October 1, 2012,
168 any newly created association shall be organized as a business or
169 nonstock corporation.

170 Sec. 7. Subsection (a) of section 47-278 of the 2012 supplement to the
171 general statutes is repealed and the following is substituted in lieu
172 thereof (*Effective October 1, 2012*):

173 (a) A declarant, association, unit owner or any other person subject
174 to this chapter may bring an action to enforce a right granted or
175 obligation imposed by this chapter, the declaration or the bylaws. The
176 court may award reasonable attorney's fees and costs. In addition, the

177 court may impose a civil penalty in an amount not to exceed five
178 thousand dollars against any person who is found to have violated the
179 provisions of this chapter.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	20-452(a)
Sec. 2	<i>October 1, 2012</i>	20-453
Sec. 3	<i>October 1, 2012</i>	20-456
Sec. 4	<i>October 1, 2012</i>	20-457(d)
Sec. 5	<i>October 1, 2012</i>	20-319
Sec. 6	<i>October 1, 2012</i>	47-243
Sec. 7	<i>October 1, 2012</i>	47-278(a)

JUD *Joint Favorable Subst.*

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:

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Consumer Protection, Dept.	GF - Cost	less than 1,000	None
Consumer Protection, Dept.	GF - Revenue Gain	less than 10,000	less than 10,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill results in a one-time cost of less than \$1,000 to the Department of Consumer Protection in FY 13. The cost is associated with modifying applications and the CAVU e-licensing system to meet the new requirements for community association managers. There are currently 287 licensed community association managers.

Additionally the bill results in a potential revenue gain to the state of less than \$10,000 as it allows for the imposition of civil penalties against anyone that violates the Common Interest Ownership Act. Two or fewer such violations are anticipated in any one fiscal year.

The Out Years

The revenue gain indicated above would continue in to the out years subject to the number of violations.

OLR Bill Analysis**sHB 5536*****AN ACT CONCERNING REQUIREMENTS FOR CERTIFICATION AS A COMMUNITY ASSOCIATION MANAGER, LICENSURE AS A REAL ESTATE BROKER OR SALESPERSON AND ORGANIZATION OF A UNIT OWNERS' ASSOCIATION.*****SUMMARY:**

This bill allows courts to impose civil penalties of up to \$5,000 on anyone who is found to have violated the Common Interest Ownership Act (CIOA). Existing law allows anyone subject to CIOA to bring an action to enforce rights granted by CIOA or by the association's declaration or bylaws, and allows courts to award reasonable attorneys fees and costs.

The bill requires new applicants for community association manager registration to submit to criminal background checks. It also establishes education and testing requirements for community association managers. The testing requirement does not apply to anyone who has been registered as a community association manager for at least 10 years as of October 1, 2012. The bill specifies that failure to comply with this education requirement can subject the person to revocation or suspension of his or her registration, among other things. The bill also requires the Department of Consumer Protection (DCP) to adopt regulations related to the testing and education requirements.

By law, to renew their licenses, licensed real estate brokers and salespersons must complete continuing education requirements, which can be satisfied, among other things, through courses approved by the Real Estate Commission within DCP. The bill provides that such courses must include practices and laws on common interest communities (e.g., condominiums). It also specifies that the DCP commissioner's regulations on coursework approval must include

such matters.

The bill also requires unit owners' associations under CIOA that are created on or after October 1, 2012 to be organized as business or nonstock corporations. Current law also allows unit owners' associations under CIOA to be organized as trusts, partnerships, or unincorporated associations.

EFFECTIVE DATE: October 1, 2012

COMMUNITY ASSOCIATION MANAGERS

§ 1 – Criminal Convictions and Background Checks

By law, community association managers must register with DCP. The bill requires the application form to include a question about whether the applicant has any felony convictions in any jurisdiction.

The bill also requires anyone seeking an initial community association manager registration certificate with DCP on and after October 1, 2012 to submit to the DCP commissioner's request for a state and national criminal background check. (The bill does not specify who must pay for the background check.) The bill prohibits DCP from issuing a registration to someone until DCP receives the person's background check.

§§ 2, 3, 4 – Education and Testing Requirements

The bill requires all community association managers to successfully complete a nationally recognized course on community association management. Under the bill, anyone who was registered before October 1, 2012 has until October 1, 2014 to complete the course; anyone initially registered on or after October 1, 2012 must complete the course within one year of registration.

The bill also requires community association managers who receive their initial registration on or after October 1, 2012, as well as those who were registered before then and have been registered for less than 10 years, to pass an examination, with the same deadlines as required for completing the course outlined above. The exam may be (1) the

National Board of Certification for Community Association Managers' Certified Manager of Community Associations examination or (2) a similar examination that the DCP commissioner prescribes in regulations (see below).

By law, the Real Estate Commission can take various actions against someone who violates any provision of the community association manager law. The bill specifies that this includes the failure to comply with its educational requirements. These actions include (1) revoking, suspending, or refusing to issue or renew a community association manager's registration certificate, (2) placing a registrant on probation, or (3) issuing a letter of reprimand. By law, the commission can revoke or suspend a registration certificate only after notice and a hearing in accordance with the Uniform Administrative Procedure Act.

Registration Renewal. The bill requires community association managers, when applying for their annual registration renewal, to submit to DCP documentation showing that they have passed any required examination or completed any required coursework.

Regulations. The bill requires DCP, with the Real Estate Commission's advice and assistance, to adopt regulations on (1) any examination required for community association manager certification and (2) the approval of (a) schools, institutions, or organizations that offer courses in current practice and laws concerning community association management and (b) the course contents. The regulations must specify how to meet the educational requirements. They must also include exemptions from the requirements for reasons of health or individual hardship.

The bill prohibits DCP, in adopting the regulations, from disapproving an examination or course, or the school, institution, or organization that offers an examination or course, solely because the examination or course is offered or taught electronically.

BACKGROUND

Common Interest Ownership Act (CIOA)

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities (CGS § 47-200 *et seq.*).

Generally, CIOA applies to common interest communities created in Connecticut on or after January 1, 1984. However, certain provisions of CIOA (including the provision on court actions that this bill amends), 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. Condominiums created before then can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, -216, -218).

Related Bill

HB 5511, reported favorably by the Judiciary Committee on April 2, 2012, changes requirements under CIOA for approval of annual budgets, special assessments, and assignments of the right to future income as security for loan agreements.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 42 Nay 0 (04/02/2012)