



# Senate

General Assembly

**File No. 682**

January Session, 2013

Senate Bill No. 1103

*Senate, May 2, 2013*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

**AN ACT CONCERNING THE APPROVAL PROCESS FOR ASSIGNMENTS OF FUTURE INCOME IN COMMON INTEREST COMMUNITIES.**

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

1 Section 1. Section 47-261e of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) The executive board, at least annually, shall adopt a proposed  
4 budget for the common interest community for consideration by the  
5 unit owners. Not later than thirty days after the adoption of a  
6 proposed budget, the executive board shall provide to all unit owners  
7 a summary of the budget, including a statement of the amount of any  
8 reserves, and a statement of the basis on which such reserves are  
9 calculated and funded. Simultaneously, the board shall set a date not  
10 less than ten days or more than sixty days after providing the  
11 summary for either a meeting of the unit owners or a vote by ballot  
12 without a meeting to consider approval of the budget. If, at that  
13 meeting or in the vote by ballot, a majority of all unit owners or any

14 larger number specified in the declaration votes to reject the budget,  
15 the budget shall be rejected. If, at that meeting or in the vote by ballot,  
16 a majority of all unit owners or any larger number specified in the  
17 declaration does not vote to reject the budget, the budget shall be  
18 approved. The absence of a quorum at such meeting or participating in  
19 the vote by ballot shall not affect rejection or approval of the budget. If  
20 a proposed budget is rejected, the budget last approved by the unit  
21 owners continues until unit owners approve a subsequent budget.

22 (b) The executive board, at any time, may propose a special  
23 assessment. Not later than thirty days after adoption of a proposed  
24 special assessment, the executive board shall provide to all unit owners  
25 a summary of the proposed special assessment. Unless the declaration  
26 or bylaws otherwise provide, if such special assessment, together with  
27 all other special and emergency assessments proposed by the executive  
28 board in the same calendar year, do not exceed fifteen per cent of the  
29 association's last adopted periodic budget for that calendar year, the  
30 special assessment is effective without approval of the unit owners.  
31 Otherwise, the board shall set a date not less than ten days or more  
32 than sixty days after providing the summary for either a meeting of the  
33 unit owners or a vote by ballot without a meeting to consider approval  
34 of the special assessment. If, at such meeting or in the balloting, a  
35 majority of all unit owners or any larger number specified in the  
36 declaration votes to reject the special assessment, the special  
37 assessment shall be rejected. If, at such meeting or in the balloting, a  
38 majority of all unit owners or any larger number specified in the  
39 declaration does not vote to reject the special assessment, the special  
40 assessment shall be approved. The absence of a quorum at such  
41 meeting or participating in the vote by ballot shall not affect the  
42 rejection or approval of the special assessment.

43 (c) If the executive board determines by a two-thirds vote that a  
44 special assessment is necessary to respond to an emergency: (1) The  
45 special assessment becomes effective immediately in accordance with  
46 the terms of the vote; (2) notice of the emergency assessment must be  
47 provided promptly to all unit owners; and (3) the executive board may

48 spend the funds paid on account of the emergency assessment only for  
49 the purposes described in the vote.

50 (d) Notwithstanding any provision of the declaration or bylaws to  
51 the contrary, at least fourteen days prior to entering into any loan  
52 agreement on behalf of the association, the executive board shall (1)  
53 disclose in a record to all unit owners the amount and terms of the loan  
54 and the estimated effect of such loan on any common expense  
55 assessment, and (2) afford the unit owners a reasonable opportunity to  
56 submit comments in a record to the executive board with respect to  
57 such loan.

58 (e) Unless prohibited or otherwise limited in the declaration, if the  
59 executive board proposes to enter into a loan agreement on behalf of  
60 the association and to assign its right to future income as security for  
61 such loan pursuant to subdivision (14) of subsection (a) of section 47-  
62 244, then, in addition to satisfying the requirements of subsection (d) of  
63 this section, [unit owners of units to which at least a majority of the  
64 votes in the association are allocated, or any larger percentage or  
65 fraction stated in the declaration, must vote in favor of or agree to such  
66 assignment] the board shall set a date not less than ten days or more  
67 than sixty days after satisfying the requirements of subsection (d) of  
68 this section, for a meeting of the unit owners and a vote by ballot at the  
69 meeting to consider approval of such assignment. If, at such meeting, a  
70 majority of all unit owners or any larger number specified in the  
71 declaration votes to reject the assignment, the assignment shall be  
72 rejected. If, at such meeting, a majority of all unit owners or any larger  
73 number specified in the declaration does not vote to reject the  
74 assignment, the assignment shall be approved. The absence of a  
75 quorum at such meeting shall not affect the rejection or approval of the  
76 assignment.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2013	47-261e

**JUD**      *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, which makes changes to approval requirements for assignments of the right to future income as security for loan agreements, does not result in a fiscal impact to the state or municipalities.

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

---

**OLR Bill Analysis****SB 1103*****AN ACT CONCERNING THE APPROVAL PROCESS FOR ASSIGNMENTS OF FUTURE INCOME IN COMMON INTEREST COMMUNITIES.*****SUMMARY:**

This bill changes approval requirements under the Common Interest Ownership Act (CIOA) for assignments of the right to future income as security for loan agreements. It provides that the assignment is approved unless a majority of unit owners votes against it, rather than approved only if a majority votes for it. Under both current law and the bill, the declaration can specify higher numbers than a majority.

The bill provides that the absence of a quorum at the meeting does not affect approval or rejection of the assignment. It also sets a required timeframe for votes on such assignments.

By law, the association's declaration can prohibit or limit such assignments of future income.

EFFECTIVE DATE: July 1, 2013

**LOAN AGREEMENTS AND ASSIGNMENT OF RIGHT TO FUTURE INCOME UNDER CIOA**

Current law requires unit owner approval of a common interest community executive board's assignment of the right to future income as security for a loan agreement, but does not specify when the vote must be held. The bill requires the board to schedule a unit owners' meeting to vote on whether to approve the assignment. The meeting must be held between 10 and 60 days after the board satisfies other legal requirements, unchanged by the bill, related to loan agreements

(i.e., at least 14 days before entering into a loan agreement on the association's behalf, the board must (1) disclose to unit owners the loan's amount, terms, and estimated impact on any common expenses assessment and (2) give them a reasonable opportunity to submit comments on the loan).

## **BACKGROUND**

### ***Common Interest Ownership Act***

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 provisions that this bill amends) apply to common interest communities created in Connecticut before January 1, 1984, but do not invalidate existing provisions of the communities' governing instruments. Common interest communities 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 6513, reported favorably by the Judiciary Committee, changes requirements under CIOA for approval of annual budgets and special assessments. It provides that to reject such a budget or assessment, (1) a majority of all unit owners participating in the vote must reject it and (2) at least one-third of unit owners entitled to vote on the measure must vote to reject it. Currently, such measures are approved unless a majority of all unit owners votes to reject them.

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 40 Nay 3 (04/16/2013)