



Senate

General Assembly

File No. 715

January Session, 2013

Substitute Senate Bill No. 1145

Senate, May 6, 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 substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT AND THE CONDOMINIUM ACT.

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

1 Section 1. Section 20-458 of the general statutes is amended by
2 adding subsection (c) as follows (*Effective October 1, 2013*):

3 (NEW) (c) An association's board of directors, as defined in section
4 47-68a, or executive board, as defined in section 47-202, shall ensure
5 that any community association manager under contract to provide
6 association management services to an association provides such
7 services in full compliance with the association's bylaws, as well as the
8 provisions of chapter 825 or 828, as applicable.

9 Sec. 2. Subdivision (5) of subsection (b) of section 47-250 of the
10 general statutes is repealed and the following is substituted in lieu
11 thereof (*Effective October 1, 2013*):

12 (5) Unless [the meeting is included in a schedule given to the unit

13 owners or the] a meeting is called to deal with an emergency, the
14 secretary or other officer specified in the bylaws shall give notice of
15 each executive board meeting to each board member and to the unit
16 owners. The notice shall be given at least five days before the meeting
17 and shall state the time, date, place and agenda of the meeting, except
18 that notice of a meeting called to adopt, amend or repeal a rule shall be
19 given in accordance with subsection (a) of section 47-261b.

20 Sec. 3. Subsection (c) of section 47-252 of the general statutes is
21 repealed and the following is substituted in lieu thereof (*Effective*
22 *October 1, 2013*):

23 (c) Except as otherwise provided in the declaration or bylaws, the
24 following requirements apply with respect to proxy voting:

25 (1) Votes allocated to a unit may be cast pursuant to a directed or
26 undirected proxy duly executed by a unit owner;

27 (2) The association may provide a proxy form to any unit owner
28 who seeks to vote pursuant to a directed or undirected proxy. No
29 proxy form provided by an association pursuant to this subdivision
30 shall include the name of the proxy holder, unless the unit owner
31 requests that the name of the proxy holder be included on the proxy
32 form;

33 [(2)] (3) If a unit is owned by more than one person, each owner of
34 the unit may vote or register protest to the casting of votes by the other
35 owners of the unit through a duly executed proxy;

36 [(3)] (4) A unit owner may revoke a proxy given pursuant to this
37 section only by actual notice of revocation to the person presiding over
38 a meeting of the association;

39 [(4)] (5) A proxy is void if it is not dated or purports to be revocable
40 without notice;

41 [(5)] (6) A proxy terminates one year after its date, unless it specifies
42 a shorter term; and

43 [(6)] (7) A person may not cast votes representing more than fifteen
44 per cent of the votes in the association pursuant to undirected proxies.

45 Sec. 4. Subdivision (1) of subsection (a) of section 47-260 of the
46 general statutes is repealed and the following is substituted in lieu
47 thereof (*Effective October 1, 2013*):

48 (1) Detailed records of receipts and expenditures affecting the
49 operation and administration of the association and other appropriate
50 accounting records, including, but not limited to, records relating to
51 reserve accounts;

52 Sec. 5. Subsection (d) of section 47-255 of the general statutes is
53 repealed and the following is substituted in lieu thereof (*Effective*
54 *October 1, 2013*):

55 (d) Insurance policies carried pursuant to subsections (a) and (b) of
56 this section shall provide that: (1) Each unit owner is an insured person
57 under the policy with respect to liability arising out of his interest in
58 the common elements or membership in the association; (2) the insurer
59 waives its right to subrogation under the policy against any unit owner
60 or member of his household; and (3) no act or omission by any unit
61 owner, unless acting within the scope of his authority on behalf of the
62 association, will void the policy or be a condition to recovery under the
63 policy. [; and (4) if, at the time of a loss under the policy, there is other
64 insurance in the name of a unit owner covering the same risk covered
65 by the policy, the association's policy provides primary insurance.]

66 Sec. 6. Section 47-253 of the general statutes is amended by adding
67 subsection (e) as follows (*Effective October 1, 2013*):

68 (NEW) (e) No member of the executive board or officer of the
69 association shall be criminally liable for any conduct performed on
70 behalf of the association which is within the scope of such member's or
71 officer's authority.

72 Sec. 7. (NEW) (*Effective October 1, 2013*) No member of a board of
73 directors, as defined in section 47-68a of the general statutes, or officer,

74 as defined in section 47-68a of the general statutes, shall be criminally
 75 liable for any conduct performed by the member or officer on behalf of
 76 the association of unit owners, as defined in section 47-68a of the
 77 general statutes, which is within the scope of such member's or
 78 officer's authority.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	20-458
Sec. 2	<i>October 1, 2013</i>	47-250(b)(5)
Sec. 3	<i>October 1, 2013</i>	47-252(c)
Sec. 4	<i>October 1, 2013</i>	47-260(a)(1)
Sec. 5	<i>October 1, 2013</i>	47-255(d)
Sec. 6	<i>October 1, 2013</i>	47-253
Sec. 7	<i>October 1, 2013</i>	New section

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:** None**Municipal Impact:** None**Explanation**

The bill, which makes statutory changes affecting condominiums and other common interest communities, does not result in a fiscal impact to the state or municipalities as these are private entities.

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

OLR Bill Analysis**sSB 1145*****AN ACT CONCERNING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT AND THE CONDOMINIUM ACT.*****SUMMARY:**

This bill makes several changes affecting condominiums and other common interest communities.

It requires executive boards under the Common Interest Ownership Act (CIOA), and boards of directors under the Condominium Act, to ensure that community association managers under contract with them for association management services provide such services in full compliance with (1) the association's bylaws and (2) CIOA or the Condominium Act as applicable (see BACKGROUND) (§ 1). The bill does not specify how boards must do so.

The bill exempts board members or officers under CIOA and the Condominium Act from criminal liability for any conduct they perform on the association's behalf, as long as the conduct is within the scope of their authority (§§ 6-7).

The bill eliminates the requirement under CIOA that the association's insurance policy provides primary coverage if, at the time of loss, the unit owner has his or her own policy covering the same risk (§ 5). In doing so, it is unclear which policy would be primary in practice under the bill.

The bill generally requires executive boards under CIOA to give board members and unit owners notice with specified information at least five days before each board meeting. Under current law, boards can provide them with a schedule of board meetings instead of providing specific notice in advance of each meeting (§ 2).

Under the bill, the secretary or other officer specified in the bylaws must provide the notice at least five days before each board meeting specifying the meeting's time, date, place, and agenda. By law, (1) different requirements apply for meetings called to adopt, amend, or repeal a rule (e.g., the notice must be given at least 10 days in advance) and (2) these notice requirements do not apply to meetings called to deal with an emergency.

CIOA currently sets certain conditions for proxy voting. The bill specifically allows associations to provide proxy forms to unit owners seeking to vote pursuant to a directed or undirected proxy. (A directed proxy specifies how the vote is to be cast, while an undirected proxy allows the person who is given the proxy to decide how to vote.) It also prohibits associations from providing proxies that include the proxy holder's name, unless the unit owner requests the name to be on the proxy (§ 3).

Under CIOA, associations must keep detailed records of receipts and expenditures affecting their operation and administration and other appropriate accounting records. The bill specifies that this includes records relating to reserve accounts (§ 4).

EFFECTIVE DATE: October 1, 2013

BACKGROUND

Common Interest Ownership Act (CIOA) and the Condominium Act

CIOA governs the creation, alteration, management, termination, and sale of condominiums and other common interest communities formed in Connecticut on and after January 1, 1984 (CGS § 47-200 et seq.). Certain provisions of CIOA (including the CIOA provisions that this bill amends, see §§ 2-6) also 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).

The Condominium Act (CGS §§ 47-68a to 47-90c) governs condominiums created from 1977 through 1983, except when CIOA applies to them.

Related Bills

The Judiciary Committee reported favorably three other bills making amendments to CIOA. SB 1103 changes approval requirements for assignments of the right to future income as security for loan agreements. sHB 6513 changes requirements for approval of annual budgets and special assessments. HB 6662 extends from six to nine months the priority of common expense assessments over previously recorded mortgages and makes other changes affecting the priority lien.

sHB 6477 (File 219), reported favorably by the Insurance and Real Estate Committee, extends from six to 12 months the priority of common expense assessments over previously recorded mortgages under CIOA.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)