



General Assembly

Substitute Bill No. 5590

February Session, 2014



**AN ACT ESTABLISHING A PILOT PROGRAM FOR THE MEDIATION
OF CONDOMINIUM-RELATED DISPUTES.**

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

1 Section 1. (NEW) (*Effective October 1, 2014*) (a) As used in this
2 section:

3 (1) "Association" has the same meaning as provided in section 47-
4 202 of the general statutes, and includes an "association of unit
5 owners", as defined in section 47-68a of the general statutes;

6 (2) "Executive board" has the same meaning as provided in section
7 47-202 of the general statutes, and includes a "board of directors", as
8 defined in section 47-68a of the general statutes;

9 (3) "Unit" has the same meaning as provided in section 47-202 of the
10 general statutes, and includes a "unit", as defined in section 47-68a of
11 the general statutes; and

12 (4) "Unit owner" has the same meaning as provided in section 47-
13 202 of the general statutes, and includes a "unit owner", as defined in
14 section 47-68a of the general statutes.

15 (b) The Chief Court Administrator of the Judicial Branch shall,
16 within available appropriations, establish a pilot program for the

17 mediation of disputes between two individual unit owners or a unit
18 owner and the executive board of an association concerning the
19 application and interpretation of (1) an association's bylaws, rules or
20 regulations, (2) the declaration establishing the condominium or
21 common interest community, or (3) the provisions of chapters 825 and
22 828 of the general statutes. Disputes related to a foreclosure action
23 initiated against a unit owner shall not be eligible for the pilot
24 program. The Chief Court Administrator shall establish the pilot
25 program in the Hartford, New Haven and Stamford-Norwalk judicial
26 districts.

27 (c) Any unit owner or executive board member acting on behalf of
28 an association with a dispute described in subsection (b) of this section
29 may file a request to participate in the pilot program. Such request
30 shall be: (1) In writing, on such form as the Chief Court Administrator
31 prescribes, which shall, at a minimum, set forth the names and
32 addresses of any unit owner or executive board member acting on
33 behalf of an association that may be a party to the dispute and a
34 description of the specific nature of the dispute; (2) accompanied by a
35 nonrefundable initiation fee of fifty dollars; and (3) filed at a court
36 designated by the Chief Court Administrator to participate in the pilot
37 program pursuant to subsection (b) of this section.

38 (d) Upon receipt of a request for participation in the pilot program,
39 the court shall provide written notification of such request, by regular
40 mail, to any unit owner or executive board member of an association
41 identified in the request. Such written notification shall include any
42 necessary forms that will need to be completed and returned by a unit
43 owner or executive board member to the court in the event that such
44 unit owner or executive board member elects to participate in
45 mediation of the dispute. Any unit owner or executive board member
46 receiving a request to participate in mediation of the dispute may elect
47 to accept or decline such request. If the unit owner or executive board
48 member elects to participate in mediation, such unit owner or
49 executive board member shall, not later than sixty days following the

50 date of the written notification from the court, return to the court any
51 forms that need to be completed in order to participate in the
52 mediation along with a filing fee of two hundred fifty dollars. The two-
53 hundred-fifty-dollar filing fee shall be refunded only if the unit owner
54 or executive board member who initiated the request for participation
55 in the pilot program fails to pay his or her filing fee. The court shall
56 thereafter provide written notification, by regular mail, to the unit
57 owner or executive board member who initiated the request for
58 participation in the pilot program that: (1) Such request has been
59 accepted, and (2) the mediation will be scheduled by the court upon
60 payment of a nonrefundable two-hundred-dollar filing fee by the unit
61 owner or executive board member who initiated the request for
62 participation in the pilot program.

63 (e) Not later than ninety days after receipt of all filing forms and
64 fees, the court shall set the date, time and place for the mediation
65 session. The court shall provide written notification of the mediation
66 session, by regular mail, to any unit owner or executive board member
67 identified in the request for mediation. The presiding judge of the civil
68 session of the court in which the request for mediation has been filed
69 shall select a special master to conduct the mediation session from the
70 list of special masters compiled by the Office of the Chief Court
71 Administrator pursuant to section 2 of this act. The special master shall
72 receive no compensation for his or her services.

73 (f) The special master shall attempt to mediate a voluntary
74 resolution of the dispute. Either party to the mediation may withdraw
75 from mediation at any time during the process after providing notice
76 to the other party and the special master. In addition, the special
77 master may terminate the mediation upon finding that further efforts
78 to mediate the dispute would be futile. If a resolution of the dispute is
79 achieved, the special master shall assist the parties to the dispute in the
80 preparation of a written agreement setting forth the specific terms of
81 the agreement. The written agreement shall be signed by the parties to
82 the mediation and the special master.

83 (g) No participant in the mediation shall voluntarily disclose or,
84 through discovery or compulsory process, be required to disclose any
85 oral or written communication received or obtained during the course
86 of the mediation, unless (1) each of the other participants agree in
87 writing to such disclosure, (2) the disclosure is necessary to enforce a
88 written agreement that resulted from the mediation, (3) the disclosure
89 is required by statute or regulation, or by any court, after notice is
90 provided to all participants in the mediation, or (4) the disclosure is
91 required as a result of circumstances in which a court finds that the
92 interest of justice outweighs the need for confidentiality, consistent
93 with the principles of law.

94 (h) The remedies provided under this section are not exclusive and
95 are in addition to any other remedies in any section of the general
96 statutes or which are available under common law.

97 (i) The presiding judge of the civil session of a court that has been
98 selected to participate in the pilot program shall maintain statistical
99 data, on an annual basis, concerning the administration of the pilot
100 program. Such data shall include, but not be limited to, the number of
101 requests received: (1) To participate in the pilot program, (2) that
102 resulted in a mediation session being held, and (3) that resulted in
103 resolution of the dispute.

104 (j) Not later than January 15, 2017, the Chief Court Administrator
105 shall report, in accordance with the provisions of section 11-4a of the
106 general statutes, to the joint standing committee of the General
107 Assembly having cognizance of matters relating to the judiciary on the
108 pilot program data compiled pursuant to subsection (i) of this section.

109 Sec. 2. (NEW) (*Effective from passage*) (a) On or before September 30,
110 2014, the Chief Court Administrator shall prescribe the qualifications
111 that an attorney must possess in order to serve as special master for the
112 pilot program established under section 1 of this act. The qualifications
113 prescribed by the Chief Court Administrator shall, at a minimum,
114 require that such attorney: (1) Be a member of the bar of this state, (2)

115 has engaged in the practice of law for not less than ten years, and (3)
116 has engaged in the practice of community association law for not less
117 than seven years.

118 (b) Upon the establishment of special master qualifications by the
119 Chief Court Administrator under subsection (a) of this section, the
120 Office of the Chief Court Administrator shall develop an application
121 process for any attorney who seeks to serve as special master for the
122 pilot program established under section 1 of this act. The Office of the
123 Chief Court Administrator shall maintain a list of those attorneys who
124 are qualified to serve as a special master for the pilot program and
125 make such list available to each presiding judge of the civil session of a
126 court designated to participate in the pilot program.

127 Sec. 3. Section 47-216 of the general statutes is repealed and the
128 following is substituted in lieu thereof (*Effective October 1, 2014*):

129 (a) Except as provided in section 47-217, sections 47-202, 47-204, 47-
130 205, 47-206, 47-218, 47-221, 47-222, 47-223, subsections (b), (d), (i) and
131 (j) of section 47-236, sections 47-237, 47-240 and 47-244, subsection (f) of
132 section 47-245, and sections 47-250, 47-251, 47-252, 47-253, 47-255, 47-
133 257, 47-258, 47-260, 47-261b, 47-261c, 47-261d, 47-261e, 47-270, [and] 47-
134 278, 1 and 2 of this act, to the extent necessary in construing any of
135 those sections, apply to all common interest communities created in
136 this state before January 1, 1984; but those sections apply only with
137 respect to events and circumstances occurring after January 1, 1984,
138 and do not invalidate existing provisions of the declaration, bylaws or
139 surveys or plans of those common interest communities.

140 (b) Section 47-210 and subsections (b) to (d), inclusive, of section 47-
141 225 apply to all common interest communities created in this state
142 prior to January 1, 1984, but shall not invalidate existing provisions of
143 the declarations, bylaws or surveys or plans of those common interest
144 communities.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2014</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>October 1, 2014</i>	47-216

Statement of Legislative Commissioners:

In section 1, subsections (b) to (f), inclusive, and subsection (i) were redrafted for clarity and conciseness.

JUD *Joint Favorable Subst.*