

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-215—sSB 457

Judiciary Committee

Insurance and Real Estate Committee

AN ACT CONCERNING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT

SUMMARY: This act makes various revisions to the Common Interest Ownership Act (CIOA) and related laws affecting condominiums and other common interest communities.

It provides for the termination of certain master associations, and transfer of their assets to new nonstock corporations, upon the consent of 25% of the unit owners. It requires, among other things, the association of each constituent common interest community to appoint a member to the nonstock corporation's board, and each board member to have an equal vote in board matters (§ 7).

The act requires the minutes of executive board meetings to indicate how each board member voted on any final action the board proposed, unless the board approved the action unanimously or without any member objecting (§ 1).

The act extends certain unit owner voting requirements to votes conducted without a meeting. It also establishes a default rule that association directors and officers are elected by plurality vote (§ 2).

It expands the information a unit owner must include in the resale certificate when selling a unit (§ 3).

It doubles the maximum fine, from \$500 to \$1,000, for certain criminal acts regarding community association management services (§ 4).

The act exempts from the law's restrictions on private transfer fees any dues, assessments, fines, or other amounts payable to associations of common interest communities as defined under CIOA, not just those organized under CIOA (§ 6). The CIOA definition covers all common interest communities, including those organized before CIOA was enacted. Thus, the exemption applies to all common interest communities, regardless of when they were formed.

The act also corrects inaccurate statutory references and makes other technical changes.

EFFECTIVE DATE: October 1, 2014, except the provisions on master associations are effective January 1, 2015, and certain technical changes are effective upon passage.

§ 7 — TERMINATING MASTER ASSOCIATIONS

The act creates a process to terminate certain master associations and transfer the association's assets to a new nonstock corporation, upon the consent of 25% of the unit owners.

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These provisions apply to master associations:

1. comprised of common interest communities consisting of at least 400 units (presumably the total of all such communities, and not each individual community, must have this many units);
2. governed by a board of directors consisting of one individual representing each constituent common interest community, who is on the constituent community's board; and
3. whose board has a weighted vote based on the number of units in the constituent community represented by the director.

Under the act, such a master association is terminated and dissolved if at least 25% of unit owners in the constituent communities consent, in writing. Upon its termination and dissolution, the master association must convey its assets to a new nonstock corporation that must be formed within 60 days.

The act provides that unit owner associations of the constituent communities are the members of the new nonstock corporation. It requires each member association to appoint one person to be a member of the corporation's board of directors. Each board member has an equal vote on matters to be voted on by the board.

The act gives unit owners of each constituent common interest community equal rights to use the facilities owned by the corporation. It requires each constituent community to share in the cost of the operation, maintenance, repair, and replacement of the corporation's facilities, based on the number of units in each constituent community as a percentage of the total number of units in all constituent communities comprising the master association.

Under the act, the Superior Court may enter such orders as are appropriate to implement the termination and transfer and the organization and operation of the new nonstock corporation.

§ 2 — UNIT OWNER VOTING; OFFICER AND DIRECTOR ELECTIONS

Under CIOA, if a unit has multiple owners and only one is present at an association meeting, that owner can cast all the votes allocated to the unit. If more than one are present, the unit's votes may be cast only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. The act extends these provisions to votes conducted without a meeting.

Under CIOA, the default rule for unit owner meetings is that the majority of votes cast represents the owners' decision. Other CIOA provisions, other law, or the community's declaration can require a larger number or fraction of votes. The act extends these provisions to votes conducted without a meeting.

It also creates an exception for unit owner elections of association directors and officers. It provides that directors are elected by a plurality vote, unless the association's declaration, bylaws, or certificate of incorporation requires a greater number or fraction of votes. It applies this same rule to officer elections if any such instrument gives unit owners the authority to elect officers.

Under the act, if any such association instrument requires any or all directors or officers to be elected by unit owners of a specified group or class of units, then

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these directors or officers are elected by a plurality of votes by the owners of that group or class.

These provisions on director and officer elections do not apply to directors appointed by the declarant (developer). They also do not apply to directors appointed, as authorized by the declaration, by a government subdivision or agency or federally tax-exempt nonstock corporation, during or after the period of declarant control.

§ 3 — RESALE CERTIFICATE

CIOA generally requires a unit owner to provide a purchaser with a certificate containing specified information before selling the unit. The act adds to the information that must be in this resale certificate. It requires the certificate to include a statement disclosing (1) the most recent fiscal period within the previous five years for which an independent certified public accountant reported on a financial statement and (2) whether that report was a compilation, review, or audit.

§ 4 — COMMUNITY ASSOCIATION MANAGERS

By law, community association managers must register with the Department of Consumer Protection (DCP). Certain prohibited acts relating to community association management are punishable by a fine, up to one year in prison, or both. The act increases the maximum fine from \$500 to \$1,000.

These prohibited acts include:

1. presenting or attempting to present someone else's registration certificate as one's own;
2. knowingly giving false material evidence to DCP, or the Connecticut Real Estate Commission within DCP, to get a certificate;
3. impersonating a registered manager;
4. using or attempting to use an expired, revoked, or suspended certificate;
5. offering to provide association management services without a current certificate; or
6. representing in any manner that registration is an endorsement by DCP or the commission regarding the manager's quality of services or competency.

By law, unchanged by the act, these actions are also deemed to be an unfair or deceptive trade practice. In addition, these actions constitute grounds for the commission to take various disciplinary actions concerning the manager's registration.

BACKGROUND

Common Interest Ownership 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 CIOA provisions also

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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 that date can amend their governing instruments to conform to portions of CIOA that do not automatically apply (CGS §§ 47-214, 216, & 218).

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