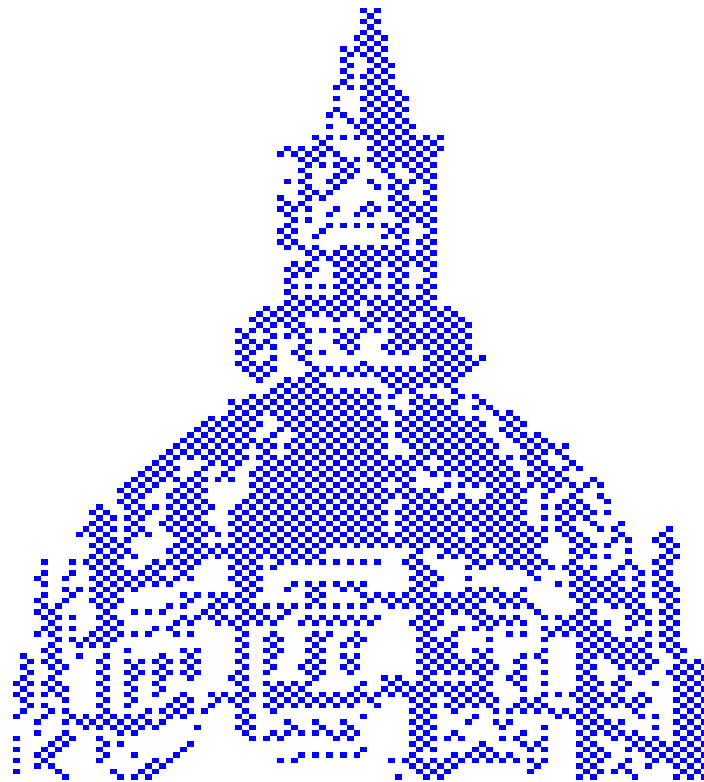




ACTS AFFECTING CONDOMINIUMS (2002-2014)



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ISSUE

This report provides brief summaries of acts enacted since 2002 amending the Common Interest Ownership Act (CIOA) and the Condominium Act. (There were no such acts in 2002-2004 or 2008.) Not all provisions of the acts are included here. Acts that make only technical changes in the statutes are not included. Complete summaries of the acts are in the yearly Public Act Summary books and [on OLR's website](#).

BACKGROUND

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 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](#)).

The Condominium Act ([CGS §§ 47-68a](#) et seq.) governs condominiums created from 1977 through 1983, except when CIOA applies.

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2005 ACT

Document Preparation Fees

[PA 05-125](#) increases, from \$75 to \$125, the maximum fee an association may charge its unit owners for preparing the resale certificate and other documents the law requires unit owners to provide purchasers. It requires the association to itemize the actual printing, photocopying, and related costs and provide an itemized list to the unit owner with the certificate and documents. It allows the association to charge an additional fee of up to \$10 for furnishing the certificate and all required documents to the unit owner within three business days after it receives a written request.

2006 ACT

Education Program

[PA 06-23](#) requires each common interest community association's executive board, or an officer the board designates, to encourage association and board members and managing agents or people providing association management services, to attend, when available, a basic education program concerning (1) the purpose and operation of common interest communities and associations and (2) the rights and responsibilities of unit owners, associations, and executive board officers and members. It allows all or part of any program fee to be designated as an association common

expense and paid from association funds in whatever manner the executive board determines and the association approves as long as the bylaws and CIOA do not prohibit it.

2007 ACTS

Insurance Requirements

[PA 07-68](#) requires common interest communities governed by CIOA to maintain flood insurance if (1) the property is located in a flood hazard area, as defined and determined by the National Flood Insurance Act, and (2) the unit owners, by vote, require it. By law, common expenses for these common interest communities include the cost of repairing and replacing any portion of the common interest community that exceeds the insurance proceeds from the insurance the association must provide. The act specifies that common expenses also include any excess resulting from any applicable insurance deductible.

The act imposes similar requirements for condominiums governed by the Condominium Act. For these condominiums, the requirement applies only if the condominium instruments or unit owners' vote requires it. The act also requires, instead of authorizes, them to provide other types of insurance, including workers' compensation, directors' indemnity, and specialized policies covering lands or improvements in

which the unit owners' association has some ownership or other rights, if the condominium instruments or unit owners' vote requires it. The act allows the condominium instruments to assess the cost of the insurance coverage against the units in proportion to risk, instead of treating them as common expenses.

Condominium Budgets and Records

[PA 07-243](#) ensures that condominium unit owners have the right to receive information concerning, and to comment on, proposed association budgets and loan transactions and gives unit owners the right to access certain condominium records.

2009 ACTS

Time Share Disclosure

[PA 09-156](#) (§ 29) requires a developer to (1) give a prospective purchaser, before he or she signs an agreement to acquire a time share interest, a disclosure statement containing certain information and (2) obtain his or her written acknowledgement of having received it. By law, if a condominium's declaration provides that ownership or occupancy of any units is or may be in time shares, the public offering statement must disclose information on time share units.

Land Records

[PA 09-213](#) eliminates a town clerk's duty to make a notation in the

land records in connection with various documents recorded in the town's land records, including liens, mortgages, and certain certificates and condominium-related documents. Instead, it requires the town clerk to record a discharge of lien, attachment, or other encumbrance or certain certificates on the town's land records.

Revisions to CIOA

[PA 09-225](#) makes numerous changes and additions to CIOA. It establishes definitions for several terms used in CIOA and amends several other definitions. It makes several portions of CIOA apply to common interest communities created before January 1, 1984.

Unit Owners' Associations. The act makes several changes concerning the powers and duties of unit owners' associations. It significantly changes the law regarding meetings of unit owners and the executive board. It creates new open meeting requirements for all executive board meetings, other than executive sessions, and meetings of any committees that have decision-making authority. It allows unit owners to vote by absentee ballot and by written or electronic ballot, unless the declaration or bylaws provide otherwise.

Insurance. The act makes several changes regarding insurance. For example, it requires the association (1) to carry fidelity insurance and (2) if the community has more than 12 units, to give unit owners, at least annually, a

list of fixtures and improvements, including wall, floor, and ceiling coverings, that the association's insurance property insurance covers. It allows an association to assess a unit owner an amount that exceeds its insurance proceeds in cases of willful misconduct, gross negligence, or failure to comply with the association's written maintenance standards by the unit owner or the owner's tenants, guests, or invitees.

Liens and Foreclosures. The act extends the association's priority lien over first and second mortgages to the extent of six months' common charges to include the amount of the association's reasonable attorney's fees and its court costs, unless the declaration provides otherwise. It establishes new limitations on the right of the association to proceed in foreclosure against a unit owner, including prohibiting a foreclosure action until a unit owner owes at least two months' common charges, the association has made a payment demand, and the board has expressly authorized initiation of the foreclosure or has adopted a standard policy that provides for foreclosure against units.

Other Provisions. The act establishes certain requirements regarding (1) the display of the American and state flags and political signs, subject to association rules as to time, place, and manner, and (2) peaceful assembly of unit owners on the common elements. It also (1) provides

a procedure under which a declarant may offer the association a remediation plan that the association must at least consider before initiating litigation against the declarant regarding construction defects; (2) expands the liability of the declarant for false or misleading statements that appear in a public offering statement; and (3) requires disclosures of certain financial information in public offering statements.

Fee Increases

PA 09-3, June Special Session, (§ 389) raises various state fees, including a condominium unit owners' association filing (1) of statutory agent (from \$45 to \$90) and (2) a change of agent/address (from \$9 to \$18).

2010 ACT

Revisions to CIOA

PA 10-186 makes several changes to CIOA. It:

1. adds to the list of CIOA provisions which automatically apply to common interest communities created in Connecticut before January 1, 1984;
2. imposes requirements on bylaw amendments affecting the priority of a security holder's interest;
3. modifies who elects the association's officers;
4. makes association rules that restrict residential leasing unenforceable unless the

- restriction is recorded in land records;
5. modifies requirements for resale certificates, including changes regarding disclosure of the number of owners delinquent in paying their common charges and deleting a requirement regarding itemized costs;
 6. reduces the required notice for executive board meetings from 10 days to five, except for meetings called to adopt, amend, or repeal a rule, and specifies the notice requirement for meetings concerning a rule; and
 7. makes minor and technical revisions.
- providing association management services from campaigning for any person seeking election to an executive board;
 3. requires an association to hold a hearing before bringing an action or instituting a proceeding against a unit owner, other than a declarant (developer);
 4. allows a unit owner, other than a declarant, to request such a hearing to enforce a right or obligation against an association or another unit owner; and
 5. exempts certain buildings from the insurance requirements for units divided by horizontal or vertical boundaries.

2011 ACT

Revisions to CIOA

[PA 11-195](#) makes the following changes to CIOA. It:

1. prohibits an (a) executive board member of a residential common interest community association or master association (representing one or more common interest communities) or (b) individual seeking election to such board, from accepting any item of value based on the understanding that doing so will influence the member's or candidate's vote, official action, or judgment; and also prohibits someone from providing or offering something of value to these people;
2. prohibits a community association manager or person

The act also prohibits a contract between a common interest community association and an individual providing association management services from including any clause or agreement that indemnifies or holds the association manager harmless against any liability for loss or damage resulting from the manager's negligence or willful misconduct.

2012 ACT

Display of Religious Objects

[PA 12-113](#) (§ 6) generally bars anyone from prohibiting or hindering a condominium unit's owner, lessee, or sublessee from attaching to the unit's entry door or entry door frame an object being displayed as part of a religious practice or sincerely held religious belief. Despite this general

ban, the act allows condominium associations to adopt and enforce bylaws prohibiting items from being displayed or affixed on such doors or door frames when they:

1. threaten public health or safety;
2. hinder the entry door from opening and closing;
3. violate any federal, state, or local law;
4. contain graphics, language, or any display that is obscene or otherwise patently offensive;
5. are displayed or affixed on an entry door frame, are larger than 25 square inches, individually or in combination with other such items; or
6. are displayed or affixed on the entry door itself, are larger than four square feet, individually or in combination with other such items.

Such bylaws must not conflict with the First Amendment of the U.S. Constitution (which, among other things, protects the free exercise of religion and freedom of speech) and Article I, Section 3 of the state constitution (which protects the right of religious liberty).

2013 ACTS

Unpaid Common Charges

CIOA gives common interest community associations seeking to collect unpaid common charges a priority lien over previously recorded

first or second security interests (e.g., mortgages). [PA 13-156](#) makes several changes affecting this priority lien. It:

1. extends the period covered by the lien from six to nine months;
2. specifies that the lien applies in all actions the mortgage holder brings to foreclose its mortgage on the unit as well as all actions the association brings to foreclose its lien for unpaid common charges;
3. excludes from the lien any late fees, interest, or fines that the association assesses against the unit's owner during the nine-month period;
4. specifies that the lien includes only reasonable attorneys' fees;
5. requires an association, before bringing an action to foreclose its lien, to provide mortgage holders with (a) 60 days' notice setting forth specified information and (b) a copy of the demand for payment it must already send to the unit owner; and
6. excludes costs or attorneys' fees from the association's priority lien if it fails to provide the required 60 days' notice.

The act specifies that CIOA's provisions concerning the priority of association liens (in regard to all other liens and encumbrances, not just mortgages) apply despite contrary provisions in the association's declaration or bylaws.

It also specifies that association assessments under CIOA and related attorneys' fees and costs owed by a mortgagor (i.e., the borrower) and paid by a mortgagee, are part of the debt the mortgagor owes to the mortgagee or lienor.

Budget and Special Assessment Approval Process

[PA 13-182](#) makes it easier for unit owners in certain large common interest communities to reject annual budgets and special assessments. Under CIOA, common interest community annual budgets and special assessments are approved unless a majority of all unit owners, or a larger number specified in the association's declaration, votes to reject them.

The act creates an exception for (1) common interest communities that have more than 2,400 residential units and were established before July 3, 1991 and (2) master associations exercising the powers on behalf of one or more common interest communities or for the benefit of the unit owners of one or more such communities, with the same size and establishment requirements as specified above. The act provides that, for these communities and master associations, a proposed budget or assessment is approved unless (1) a majority of unit owners participating in the vote rejects it and (2) at least one-third of unit owners entitled to vote on the measure vote to reject it.

Revisions to CIOA and the Condominium Act

[PA 13-289](#) makes several changes affecting condominiums and other common interest communities. It subjects community association managers to disciplinary action for knowing and material violations of CIOA or the Condominium Act.

The act exempts board members or association officers under CIOA and the Condominium Act from criminal liability, under certain circumstances, for alleged violations of the state building or fire safety code or a municipal health, housing, or safety code. This immunity applies when the board proposes a special assessment to cover the cost of repairs needed to ensure compliance with the codes and the unit owners vote to reject the assessment.

CIOA generally allows executive boards to provide board members and unit owners with a schedule of board meetings instead of providing specific notice in advance of each meeting. Under the act, if the board provides unit owners with such a meeting schedule, the secretary or other officer specified in the bylaws must make an agenda available to board members and unit owners no later than 48 hours before the meeting.

CIOA sets certain conditions for proxy voting. The act specifically allows associations to provide proxy forms to unit owners seeking to vote pursuant to a directed or undirected proxy. The

proxy forms must include a blank space for the insertion of the proxy holder's name. The act also allows the forms to include the name of a person the association designates as the default proxy holder. Such a person is authorized to exercise the proxy if the unit owner does not specify the name of the proxy holder subject to the limitations set forth for proxy voting under CIOA and the act.

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

2014 ACT

Revisions to CIOA

[PA 14-215](#) makes various revisions to 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.

The act requires that the minutes of executive board meetings 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.

It (1) extends certain unit owner voting requirements to votes conducted without a meeting, (2) establishes a default rule that association directors and officers are elected by plurality vote, and (3) expands the information a unit owner must include in the resale certificate when selling a unit.

The act doubles the maximum fine, from \$500 to \$1,000, for certain criminal acts regarding community association management services.

It 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. 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.

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