



# House of Representatives

General Assembly

**File No. 473**

January Session, 2021

House Bill No. 6538

*House of Representatives, April 15, 2021*

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT MAKING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT.**

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

1 Section 1. Subsection (a) of section 47-250 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective from*  
3 *passage*):

4 (a) The following requirements apply to unit owner meetings:

5 (1) An association shall hold a meeting of unit owners annually at a  
6 time, date and place stated in or fixed in accordance with the bylaws;

7 (2) An association shall hold a special meeting of unit owners if its  
8 president, a majority of the executive board, or unit owners having at  
9 least twenty per cent, or any lower percentage specified in the bylaws,  
10 of the votes in the association request that the secretary call the meeting.  
11 If the association does not notify unit owners of a special meeting within  
12 fifteen days after the requisite number or percentage of unit owners

13 request the secretary to do so, the requesting members may directly  
14 notify the unit owners of the meeting. Only matters described in the  
15 meeting notice required by subdivision (3) of this subsection may be  
16 considered at a special meeting;

17 (3) An association shall notify unit owners of the time, date and place  
18 of each annual and special meeting of unit owners not less than ten days  
19 or more than sixty days before the meeting date. Notice may be by any  
20 means described in section 47-261c. The notice of any meeting shall state  
21 the time, date and place of the meeting and the items on the agenda,  
22 including (A) a statement of the general nature of any proposed  
23 amendment to the declaration or bylaws, (B) any budget changes, and  
24 (C) any proposal to remove an officer or member of the executive board;

25 (4) Unit owners shall be given a reasonable opportunity at any  
26 meeting to comment regarding any matter affecting the common  
27 interest community or the association; and

28 (5) [The] Unless prohibited by the declaration or bylaws, [may allow  
29 for] meetings of unit owners [to] may be conducted by telephonic, video  
30 or other conferencing process if the alternative process is consistent with  
31 subdivision (7) of subsection (b) of this section.

32 Sec. 2. Subsections (a) and (b) of section 47-252 of the general statutes  
33 are repealed and the following is substituted in lieu thereof (*Effective*  
34 *from passage*):

35 (a) Unless prohibited or limited by the declaration or bylaws, unit  
36 owners may vote (1) at a meeting in person [,] or electronically, (2) by a  
37 proxy pursuant to subsection (c) of this section or, (3) when a vote is  
38 conducted without a meeting, by electronic or paper ballot pursuant to  
39 subsection (d) of this section.

40 (b) At [either] a meeting of unit owners conducted in person,  
41 electronically or both in person and electronically, or in a vote  
42 conducted without a meeting, the following requirements apply:

43 (1) If only one of several owners of a unit is present at a meeting of

44 the association or participating in the vote without a meeting, that  
45 owner is entitled to cast all the votes allocated to that unit. If more than  
46 one of the owners are present at the meeting or participating in the vote  
47 without a meeting, the votes allocated to that unit may be cast only in  
48 accordance with the agreement of a majority in interest of the owners,  
49 unless the declaration expressly provides otherwise. There is majority  
50 agreement if any one of the owners casts the votes allocated to the unit  
51 without protest being made promptly to the person presiding over the  
52 meeting by any of the other owners of the unit.

53 (2) Except as otherwise provided in this subsection, unless a greater  
54 number or fraction of the votes in the association is required by this  
55 chapter or other law or the declaration, a majority of the votes cast is the  
56 decision of the unit owners.

57 (3) Unless a greater number or fraction of the votes in the association  
58 is required by the declaration, bylaws or certificate of incorporation of  
59 the association, directors shall be elected by a plurality of the votes cast  
60 by the unit owners. If the declaration, bylaws or certificate of  
61 incorporation of the association requires any or all directors to be elected  
62 by unit owners of a specified group or class of units, then such directors  
63 shall be elected by a plurality of the votes cast by the unit owners of  
64 units of such group or class of units. The provisions of this subdivision  
65 shall not apply to directors who may be appointed by the declarant or  
66 under subsection (g) of section 47-245.

67 (4) If the declaration, bylaws or certificate of incorporation of the  
68 association provide for the election of officers by the unit owners, then  
69 unless a greater number or fraction of the votes in the association is  
70 required by the declaration, bylaws or certificate of incorporation of the  
71 association, officers shall be elected by a plurality of the votes cast by  
72 the unit owners. If the declaration, bylaws or certificate of incorporation  
73 of the association requires any or all officers to be elected by unit owners  
74 of a specified group or class of units, then such officers shall be elected  
75 by a plurality of the votes cast by the unit owners of units of such group  
76 or class of units. The provisions of this subdivision shall not apply to

77 directors who may be appointed by the declarant or under subsection  
78 (g) of section 47-245.

79 Sec. 3. Subsection (b) of section 47-260 of the general statutes is  
80 repealed and the following is substituted in lieu thereof (*Effective from*  
81 *passage*):

82 (b) [Subject] Notwithstanding any provision of the declaration or  
83 bylaws to the contrary, and subject to subsections (c) and (d) of this  
84 section, all records retained by an association shall be available for  
85 examination in person or electronically and for copying by a unit owner  
86 or the owner's authorized agent:

87 (1) During reasonable business hours or at a mutually convenient  
88 time and location; and

89 (2) Upon [five] thirty days' notice in a record reasonably identifying  
90 the specific records of the association requested, provided the  
91 association shall, not later than five business days following the date of  
92 receiving such notice, provide the requesting unit owner or owner's  
93 authorized agent with two dates on which the records may be  
94 examined, copied, or both.

95 Sec. 4. Section 47-278 of the general statutes is repealed and the  
96 following is substituted in lieu thereof (*Effective from passage*):

97 (a) A declarant, association, unit owner or any other person subject  
98 to this chapter may bring an action to enforce a right granted or  
99 obligation imposed by this chapter, the declaration or the bylaws. The  
100 court may award reasonable attorney's fees and costs.

101 (b) Parties to a dispute arising under this chapter, the declaration or  
102 the bylaws may agree to resolve the dispute by any form of binding or  
103 nonbinding alternative dispute resolution, provided: (1) A declarant  
104 may agree with the association to do so only after the period of declarant  
105 control has expired; and (2) an agreement to submit to any form of  
106 binding alternative dispute resolution must be in a record authenticated  
107 by the parties.

108 (c) (1) (A) [~~Except~~] Notwithstanding any provision of the declaration  
109 or bylaws to the contrary, and except as otherwise provided under  
110 subdivision (2) of this subsection, before an association brings an action  
111 or institutes a proceeding against a unit owner other than a declarant,  
112 the association shall schedule a hearing to be held during a regular or  
113 special meeting of the executive board and shall send a written notice  
114 [by certified mail, return receipt requested, and] by regular mail, to the  
115 unit owner at least ten business days prior to the date of such hearing.  
116 Such notice shall include a statement of the nature of the claim against  
117 the unit owner and the date, time and place of the hearing.

118 (B) The unit owner shall have the right to give testimony orally or in  
119 writing at the hearing, either personally or through a representative,  
120 and the executive board shall consider such testimony in making a  
121 decision whether to bring an action or institute a proceeding against  
122 such unit owner.

123 (C) [~~The~~] Notwithstanding any provision of the declaration or bylaws  
124 to the contrary, the executive board shall make such decision and the  
125 association shall send such decision in writing [by certified mail, return  
126 receipt requested, and] by regular mail, to the unit owner, not later than  
127 thirty days after the date on which the hearing concludes.

128 (2) The provisions of subdivision (1) of this subsection shall not apply  
129 to an action brought by an association against a unit owner (A) to  
130 prevent immediate and irreparable harm, or (B) to foreclose a lien for an  
131 assessment attributable to a unit or fines imposed against a unit owner  
132 pursuant to section 47-258.

133 (d) (1) Any unit owner other than a declarant, seeking to enforce a  
134 right granted or obligation imposed by this chapter, the declaration or  
135 the bylaws against the association or another unit owner other than a  
136 declarant, may submit a written request to the association for a hearing  
137 before the executive board. Such request shall include a statement of the  
138 nature of the claim against the association or another unit owner.

139 (2) [~~Not~~] Notwithstanding any provision of the declaration or bylaws

140 to the contrary, not later than thirty days after the date on which the  
 141 association receives such request, the association shall schedule a  
 142 hearing to be held during a regular or special meeting of the executive  
 143 board and shall send written notice [by certified mail, return receipt  
 144 requested, and] by regular mail, to the unit owner at least ten business  
 145 days prior to the date of such hearing. Such notice shall include the date,  
 146 time and place of the hearing. Such hearing shall be held not later than  
 147 forty-five days after the date on which the association receives such  
 148 request.

149 (3) [The] Notwithstanding any provision of the declaration or bylaws  
 150 to the contrary, the executive board shall make a decision on the unit  
 151 owner's claim and the association shall send such decision in writing [by  
 152 certified mail, return receipt requested, and] by regular mail, to the unit  
 153 owner, not later than thirty days after the date on which the hearing  
 154 concludes.

155 (4) The failure of the association to comply with the provisions of this  
 156 subsection shall not affect a unit owner's right to bring an action  
 157 pursuant to subsection (a) of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	47-250(a)
Sec. 2	<i>from passage</i>	47-252(a) and (b)
Sec. 3	<i>from passage</i>	47-260(b)
Sec. 4	<i>from passage</i>	47-278

**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.*

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**OFA Fiscal Note****State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which revises the Common Interest Ownership Act, involves private parties and does not result in a fiscal impact to the state or municipalities.

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

**OLR Bill Analysis****HB 6538*****AN ACT MAKING REVISIONS TO THE COMMON INTEREST OWNERSHIP ACT.*****SUMMARY**

This bill makes various revisions to the Common Interest Ownership Act (CIOA).

It allows unit owner meetings, and votes at these meetings, to be held by telephone, video, or other conferencing process unless the association's declaration or bylaws prohibit it. By contrast, current statute allows meetings in this manner only if the declaration or bylaws authorize it.

As under current statute, (1) the meeting notice must state the conferencing process to be used and how unit owners may participate and (2) the process must provide all unit owners the opportunity to hear the discussion and offer comments on relevant matters. Under existing law, unchanged by the bill, unit-owner votes conducted without a meeting may occur by electronic or paper ballot.

The bill specifies that the standard CIOA rules for unit-owner meetings apply to in-person, electronic, or combined in-person and electronic meetings.

(In May 2020, the governor issued an executive order allowing unit-owner and board meetings and votes under CIOA to be held electronically under these same procedures, despite any contrary provisions in the declaration or bylaws (EO 7HH, § 2).)

Additionally, the bill:

1. gives associations more time to produce records for examination



or copying by unit owners or their agents, and specifically allows the records to be presented electronically; and

2. eliminates the requirement for associations to send hearing and decision notices by certified mail.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Upon passage

### **§ 3 — ASSOCIATION RECORDS**

By law, common interest community associations must keep various records and make them available to unit owners. Subject to certain exceptions, the association must make these records available for examination and copying by unit owners or their authorized agents (1) during reasonable business hours or at a mutually convenient time and location and (2) upon specified notice in a record reasonably identifying the specific records requested.

The bill (1) specifically allows these records to be made available for examination in person or electronically and (2) extends the required notice period from five to 30 days.

It requires the association, within five business days after receiving the request, to provide the unit owner or agent with two dates at which the records may be available for examination or copying.

The bill also specifies that the association's declaration or bylaws cannot override these record access provisions.

### **§ 4 — HEARING AND DECISION NOTICES**

The bill eliminates the current requirement that common interest community associations provide the appropriate unit owner with board hearing notices and related decisions by certified mail in addition to regular mail. It also specifies that these notice provisions, and the existing deadlines, apply despite any contrary provisions in the association's declaration or bylaws.

Specifically, the bill applies to mailing notices and decisions for the following hearings:

1. those that are generally required before an association may bring an action or proceeding against a unit owner, and
2. those that a unit owner requested when seeking to enforce CIOA or association governing documents.

## **BACKGROUND**

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

CIOA governs 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).

## **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 36    Nay 1    (03/29/2021)