CONNECTICUT COMMON INTEREST OWNERSHIP ACT

Containing All Amendments Adopted Through the 2021 Legislative Session

Applies to All Common Interest Communities Created
On or After January 1, 1984, Except Where Otherwise Noted

Provided courtesy of

SANDLER & HANSEN LLC

COMMON INTEREST OWNERSHIP ACT

CHAPTER 828 OF THE CONNECTICUT GENERAL STATUTES
(Revised through the 2021 legislative session)

TABLE OF CONTENTS

PART I: GENERAL PROVISIONS AND APPLICABILITY 1
§ 47-200. Short title: Common Interest Ownership Act 1
§ 47-201. Applicability of chapter 1
§ 47-202.* Definitions. 1
§ 47-203. Variation by agreement and waiver of rights prohibited. Exceptions. 8
§ 47-204.* Separate titles and taxation. Recording of certificate by cooperative. Conveyance of interest in cooperative 8
§ 47-205.* Applicability of real property use laws to conversion of buildings to common interest ownership 11
§ 47-206.* Eminent domain 11
§ 47-207. Supplemental general principles of law applicable. 12
§ 47-208. Construction against implicit repeal 13
§ 47-209. Severability 13
§ 47-210.* Unconscionable contracts or contract clauses. Leases involving land or facilities in residential common interest communities that are presumed to be unconscionable. 13
§ 47-211. Obligation of good faith 16
§ 47-212. Remedies to be liberally administered 16
§ 47-213. Adjustment of dollar amount 17
§ 47-213a. Relationship of chapter to Electronic Signatures in Global and National Commerce Act 18
§ 47-214. Applicability of chapter and amendments thereto to common interest communities 18
§ 47-215. Applicability to nonresidential, mixed use and small common interest communities, limited expense liability planned communities and common interest communities with a conversion building 18
§ 47-216. Applicability to preexisting common interest communities 20
§ 47-217. Exception for certain preexisting common interest communities. 21
§ 47-218.* Applicability to amendments to governing instruments 21
§ 47-219. Applicability to out-of-state common interest communities. 22

*Applies to pre-1984 communities

§ 47-219a. Arrangements re real property costs. Separate common interest community not created thereby . . . 22
§ 47-219b. Exemption re covenant to share costs or other obligations. . . . 23

PART II: CREATION, ALTERATION AND TERMINATION OF COMMON INTEREST COMMUNITIES . . . 23
§ 47-220. Creation of common interest community . . . 23
§ 47-221.* Unit boundaries . . . 23
§ 47-222. Construction and validity of declaration, bylaws and rules. Marketability of title. Recording of surveys and plans . . . 24
§ 47-223.* Description of unit . . . 25
§ 47-224. Contents of declaration . . . 25
§ 47-225.** Leasehold common interest communities . . . 27
§ 47-226. Allocation of interests . . . 28
§ 47-227. Limited common elements . . . 30
§ 47-228. Surveys and plans . . . 30
§ 47-229. Exercise of development rights . . . 33
§ 47-230. Alterations of units . . . 34
§ 47-230a. Display of object on entry doorframe which is motivated by observance of religious practice or belief. Restrictions. . . . 35
§ 47-231. Relocation of unit boundaries . . . 35
§ 47-232. Subdivision of units . . . 36
§ 47-233. Monuments as boundaries. . . . 37
§ 47-234. Use for sales purposes. . . . 37
§ 47-235. Easement and use rights . . . 37
§ 47-236.*** Amendment of declaration . . . 38
§ 47-237.* Termination of common interest community . . . 41
§ 47-238. Rights of secured lenders . . . 45
§ 47-239. Master associations . . . 46
§ 47-239a. Termination and Dissolution of Master Association. Establishment of Nonstock Corporation . . . 47
§ 47-240.* Merger or consolidation of common interest communities . . . 49
§ 47-241. Addition of unspecified real property . . . 49
§ 47-241a. Master planned communities . . . 50

*Applies to pre-1984 communities

**Subsections (b), (c), and (d) of Section 47-225 apply to pre-1984 communities

***Subsections (b), (d), (i), and (j) of Section 47-236 apply to pre-1984 communities

§ 47-242. Addition of land or units to limited equity cooperative 51

PART III: MANAGEMENT OF COMMON INTEREST COMMUNITIES 52
§ 47-243. Organization of unit owners' association 52
§ 47-244.* Powers and duties of unit owners' association 52
§ 47-244a. Unincorporated unit owners' association's statutory agent for service . . . 57
§ 47-244b. Service of process on statutory agent 58
§ 47-245.** Executive board members and officers. Duties. Period of declarant control: Delivery of property and documents by declarant; current financial statement 59
§ 47-246. Transfer of special declarant rights. Obligations and liabilities 63
§ 47-247. Termination of contracts and leases 67
§ 47-248. Bylaws. 67
§ 47-249. Upkeep of common interest community. Liability for expenses 68
§ 47-250.* Meetings. Rules. 69
§ 47-251.* Quorum 73
§ 47-252.* Voting. Proxies. Ballots 73
§ 47-253.* Liability. 77
§ 47-254. Conveyance or encumbrance of common elements 78
§ 47-255.* Insurance 79
§ 47-256. Surplus funds 84
§ 47-257.* Assessments for common expenses. Assessments due to wilful misconduct, failure to comply with standards or gross negligence 84
§ 47-258.* Lien for assessments and other sums due association. Enforcement 85
§ 47-259. Other liens. 89
§ 47-260.* Association records. Copies. Fees. 91
§ 47-261. Association as trustee 93
§ 47-261a. Basic education program for association members and management. . . . 94
§ 47-261b.* Rules 94
§ 47-261c.* Notice to unit owners 95
§ 47-261d.* Removal of officers and directors. 96
§ 47-261e.* Adoption of budgets. Special assessments. Loan agreements 97
§ 47-261f. Litigation involving declarant. 100

*Applies to pre-1984 communities

**Subsection (f) of Section 47-245 applies to pre-1984 communities

PART IV: PROTECTION OF PURCHASERS 102
§ 47-262. Applicability of part. Exceptions to requirement of public offering statement or resale certificate 102
§ 47-263. Public offering statement requirements. Liability. 103
§ 47-264. Public offering statement. General provisions and requirements 104
§ 47-265. Requirements for public offering statement when community is subject to development rights 108
§ 47-266. Requirements for public offering statement when ownership or occupancy is by time shares 110
§ 47-267. Requirements for public offering statement when community contains conversion building. 110
§ 47-268. Requirements for public offering statement when interest in community is security 111
§ 47-269. Purchaser's right to cancel. 111
§ 47-270.* Resales of units 112
§ 47-271. Escrow of deposits. Distribution of interest 115
§ 47-272. Release of liens 116
§ 47-273. Rights of tenants in conversion buildings. 117
§ 47-274. Express warranties of quality 117
§ 47-275. Implied warranties of quality 118
§ 47-276. Exclusion or modification of implied warranties of quality. 119
§ 47-277. Action for breach of warranty. Statute of limitations 119
§ 47-278.* Cause of action to enforce chapter, declaration or bylaws. Attorney's fees and costs. Alternative dispute resolution 120
§ 47-279. Labeling of promotional material 121
§ 47-280. Declarant's obligation to complete and restore 122
§ 47-281. Substantial completion of units required 122

PART V: COMMON INTEREST COMMUNITIES CONTAINING CONVERSION BUILDINGS 122
§ 47-282. Statement of policy 122
§ 47-283. Definitions. 123
§ 47-284. Conversion tenant's right to conversion notice and public offering statement 124
§ 47-285. Conversion tenant's right to purchase converted unit 125
§ 47-286. Conversion tenant's right to terminate lease and abandon unit. 125

*Applies to pre-1984 communities

§ 47-287. Conversion tenant's right to relocation payment 126
§ 47-288. Registration of common interest community. Notice to Department of Economic and Community Development 126
§ 47-289. Rent increases of conversion tenants 128
§ 47-290. Eviction of conversion tenants 128
§ 47-291. Unenforceable lease provisions 130
§ 47-292. Tenant's cause of action 130
§ 47-293. Applicability of protection afforded conversion tenants. 130
§ 47-294. Complaints of violations. Investigations. Enforcement action by Attorney General 131
§ 47-295. Regulations 131
§§ 47-296 to 47-299. Reserved for future use 131

PART I
GENERAL PROVISIONS AND APPLICABILITY

§ 47-200. Short title: Common Interest Ownership Act

This chapter may be cited as the "Common Interest Ownership Act".

§ 47-201. Applicability of chapter

Applicability of this chapter is governed by sections 47-214 to 47-219, inclusive.

§ 47-202. Definitions *(Applies to Pre-1984 Communities)*

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant.

(A) A person "controls" a declarant if the person

(i) is a general partner, officer, director, or employer of the declarant,

(ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty per cent of the voting interest in the declarant,

(iii) controls in any manner the election of a majority of the directors of the declarant, or

(iv) has contributed more than twenty per cent of the capital of the declarant.

(B) A person "is controlled by" a declarant if the declarant

(i) is a general partner, officer, director, or employer of the person,

(ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty per cent of the voting interest in the person,

(iii) controls in any manner the election of a majority of the directors of the person, or

(iv) has contributed more than twenty per cent of the capital of the person.

Control does not exist if the powers described in this subsection are held solely as security for an obligation and are not exercised.

(2) "Allocated interests" means the following interests allocated to each unit:

(A) In a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association;

(B) in a cooperative, the common expense liability and the ownership interest and votes in the association; and

(C) in a planned community, the common expense liability and votes in the association.

(3) "Assessment" means the sums attributable to a unit and due the association pursuant to section 47-257.

(4) "Association" or "unit owners' association" means the unit owners' association organized under section 47-243.

(5) "Bylaws" means the instruments, however denominated, that contain the procedures for conduct of the affairs of the association regardless of the form in which the association is organized, including any amendments to the instruments.

(6) "Common elements" means

(A) in the case of

(i) a condominium or cooperative, all portions of the common interest community other than the units; and

(ii) a planned community, any real property within a planned community owned or leased by the association, other than a unit, and

(B) in all common interest communities, any other interests in real property for the benefit of unit owners which are subject to the declaration.

(7) "Common expenses" means expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.

(8) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 47-226.

(9) "Common interest community" means real property described in a declaration with respect to which a person, by virtue of his ownership of a unit, is obligated to pay for a share of

(A) real property taxes on,

(B) insurance premiums on,

(C) maintenance of,

(D) improvement of, or

(E) services or other expenses related to,

common elements, other units or any other real property other than that unit described in the declaration. “Common interest community” does not include an arrangement described in section 47-219a or a covenant described in section 47-219b. For purposes of this subdivision, “ownership of a unit” includes holding a leasehold interest of forty years or more in a unit, including renewal options. “Ownership of a unit” does not include the interest which a resident holds in a

mutual housing association, as defined in subsection (b) of section 8-214f, by virtue of either a state contract for financial assistance or an individual occupancy agreement. An association of property owners funded solely by voluntary payments from those owners is not a common interest community.

(10) "Condominium" means a common interest community in which portions of the real property are designated for separate ownership and the remainder of the real property is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(11) "Conversion building" means a building that at any time before creation of the common interest community was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(12) "Cooperative" means a common interest community in which the real property is owned by an association, each of whose members is entitled by virtue of his ownership interest in the association to exclusive possession of a unit.

(13) "Dealer" means a person who owns either six or more units, or fifty per cent or more of all the units, in a common interest community.

(14) "Declarant" means any person or group of persons acting in concert who

(A) as part of a common promotional plan, offers to dispose of his interest in a unit not previously disposed of or

(B) reserves or succeeds to any special declarant right.

(15) "Declaration" means any instruments, however denominated, that create a common interest community, including any amendments to those instruments.

(16) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to

(A) add real property to a common interest community;

(B) create units, common elements, or limited common elements within a common interest community;

(C) subdivide units or convert units into common elements; or

(D) withdraw real property from a common interest community.

(17) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but the term does not include the transfer or release of a security interest.

(18) "Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.

(19) "Identifying number" means a symbol or address that identifies only one unit in a common interest community.

(20) "Leasehold common interest community" means a common interest community in which all or a portion of the real property is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(21) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of subdivision (2) or (4) of section 47-221 for the exclusive use of one or more but fewer than all of the units.

(22) "Master association" means an organization described in section 47-239, whether or not it is also an association described in section 47-243.

(23) "Offer" or "offering" means any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a common interest community not located in this state, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the common interest community is located.

(24) "Person" means an individual, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, public corporation, government, governmental subdivision or agency, instrumentality or any other legal or commercial entity.

(25) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be part of a planned community.

(26) "Proprietary lease" means an agreement with the association pursuant to which a member is entitled to exclusive possession of a unit in a cooperative.

(27) "Purchaser" means a person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than

(A) a leasehold interest, including renewal options, of less than twenty years, or

(B) as security for an obligation.

(28) "Real property" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. “Real property” includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(29) "Record", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(30) "Residential purposes" means use for dwelling or recreational purposes, or both.

(31) "Rule" means a policy, guideline, restriction, procedure or regulation of an association, however denominated, which is adopted by an association pursuant to section 47-261b, as amended by this act, which is not set forth in the declaration or bylaws and which regulates conduct occurring within the common interest community or the use, maintenance, repair, replacement, modification or appearance of the common interest community.

(32) "Security interest" means an interest in real property or personal property, created by contract or conveyance, which secures payment or performance of an obligation. "Security interest" includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership

interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

(33) "Special declarant rights" means rights reserved for the benefit of a declarant to

(A) complete improvements indicated on surveys and plans filed with the declaration or, in a cooperative, to complete improvements described in the public offering statement pursuant to subdivision (2) of subsection (a) of section 47-264;

(B) exercise any development right;

(C) maintain sales offices, management offices, signs advertising the common interest community, and models;

(D) use easements through the common elements for the purpose of making improvements within the common interest community or within real property which may be added to the common interest community;

(E) make the common interest community subject to a master association;

(F) merge or consolidate a common interest community with another common interest community of the same form of ownership;

(G) appoint or remove any officer of the association or any master association or any executive board member during any period of declarant control;

(H) control any construction, design review or aesthetic standards committee or process;

(I) attend meetings of the unit owners and, except during an executive session, the executive board; or

(J) have access to the records of the association to the same extent as a unit owner.

(34) "Time share" means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with an estate or interest in a common interest community or a specified portion thereof.

(35) "Unit" means a physical portion of the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to subdivision (5) of subsection (a) of section 47-224, as amended by this act. If a unit in a cooperative is owned by a unit owner or is sold, conveyed, voluntarily or involuntarily encumbered or otherwise transferred by a unit owner, the interest in that unit which is owned, sold, conveyed, encumbered or otherwise transferred is the right to possession of that unit under a proprietary lease, coupled with the allocated interests of that unit, and the association's interest in that unit is not thereby affected.

(36) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a person having an interest in a unit solely as security for an obligation. In a condominium or planned community, the declarant is the owner of any unit created by the declaration. In a cooperative, the declarant is treated as the owner of any unit to which allocated interests have been allocated until that unit has been conveyed to another person.

§ 47-203. Variation by agreement and waiver of rights prohibited. Exceptions

Except as expressly provided in this chapter, its provisions may not be varied by agreement, and rights conferred by it may not be waived. Except in the case of nonresidential common interest communities as provided in section 47-215, a declarant may not act under a power of attorney, or use any other device, to evade the limitations or prohibitions of this chapter or the declaration.

§ 47-204. Separate titles and taxation. Recording of certificate by cooperative. Conveyance of interest in cooperative *(Applies to Pre-1984 Communities)*

(a) In a cooperative, a unit owner's interest in a unit and its allocated interests is a real property interest for all purposes, except that the real property constituting the cooperative shall be taxed and assessed as a whole and a unit owner's interest shall not be separately taxed.

(b) In a condominium or planned community:

(1) If there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real property.

(2) If there is any unit owner other than a declarant, each unit shall be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no development rights.

(c) Any portion of the common elements for which the declarant has reserved any development right shall be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.

(d) If there is no unit owner other than a declarant, the real property comprising the common interest community may be taxed and assessed in any manner provided by law.

(e) (1) If a cooperative was created before January 1, 1984, the association may, pursuant to this section, record a certificate on the land records signed by the president of the association and attested by its secretary, or signed by such other persons authorized to act on behalf of the association by the instruments creating or governing the cooperative. The certificate shall contain or have attached as exhibits:

(A) A statement that the association is a corporation or other legal entity formed for the purpose of cooperative ownership of real property;

(B) A statement that the certificate is recorded pursuant to this section;

(C) A statement that the facts contained in the certificate accurately restate facts contained in the books and records of the association;

(D) A statement of the location where the books and records, including the form of proprietary lease, of the association are maintained;

(E) A description of the real property owned by the association or a reference to the volume and page of the land records at which a description may be obtained, together with the date on which title to the real property owned by the association was acquired, and a reference to the deed under which the association took title;

(F) If the association is incorporated:

(i) A certified copy of the current certificate of incorporation of the association;

(ii) a certified copy of the last annual or biennial report of the association filed with the Secretary of the State; and

(iii) a certificate of good standing for the corporation issued by the Secretary of the State within ninety days of the date of the recorded certificate;

(G) A list of the unit numbers of all units in the cooperative, together with the following information for each unit:

(i) The current stock or membership certificate number, if any, for the unit;

(ii) the name of the current unit owners of the unit;

(iii) the date on which the proprietary lease for the unit was signed; and

(iv) the identity of all holders of security interests in the unit as they appear on the books and records of the association, together with a description of the nature of each security interest and the date on which each security interest was granted.

(2) The certificate may be amended to include any other provision permitted by law, following a vote of unit owners necessary to amend instruments pursuant to section 47-218.

(3) A recorded certificate that complies with this section constitutes the declaration for the cooperative for purposes of this chapter and is sufficient evidence for purposes of sections 47-33b to 47-33l, inclusive, concerning marketable record title, that:

(A) The real property described or referred to in the certificate is a cooperative within the meaning of this chapter; and

(B) The persons described as unit owners in the certificate are owners of their respective units in the cooperative, subject to the security interests, if any, identified in the certificate and the interests of the association.

(4) If a transfer of any interest in a unit in a cooperative was made between January 1, 1984, and the date a certificate is recorded pursuant to this section, an identification of the transferred interest in the recorded certificate validates that transfer for purposes of this chapter but does not otherwise affect the validity of that transfer.

(5) The association may amend a recorded certificate any time to correct errors contained in it or to reflect transfers of interests in the units which occurred prior to the date of the certificate but which were not reflected on the books and records of the association on that date.

(6) A conveyance of a unit owner's interest in a cooperative created before, on or after January 1, 1984, is accomplished by delivery to the purchaser of an instrument, executed in the same manner as a deed, conveying all the seller's interest in the unit. A notice of a proprietary lease complying with section 47-19 and signed by a duly authorized officer of the association may be recorded on the land records as evidence of the named unit owner's interest in that unit.

§ 47-205. Applicability of real property use laws to conversion of buildings to common interest ownership *(Applies to Pre-1984 Communities)*

No zoning, building code, subdivision or other real property use law, ordinance or regulation may prohibit the conversion of any building to the common interest ownership form of ownership.

§ 47-206. Eminent domain *(Applies to Pre-1984 Communities)*

(a) If a unit is acquired by eminent domain or part of a unit is acquired by eminent domain leaving the unit owner with a remnant that may not practically or lawfully be used for any purpose permitted by the declaration, the award shall include compensation to the unit owner for that unit and its allocated interests, whether or not any common elements are acquired. On acquisition, unless the decree otherwise provides, that unit's allocated interests are automatically reallocated to the remaining units in proportion to the respective allocated interests of those units before the taking, and the association shall promptly prepare, execute and

record an amendment to the declaration reflecting the reallocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

(b) Except as provided in subsection (a) of this section, if part of a unit is acquired by eminent domain, the award shall compensate the unit owner for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. On acquisition, unless the decree otherwise provides,

(1) that unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration, and

(2) the portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially-acquired unit participating in the reallocation on the basis of its reduced allocated interests.

(c) If part of the common elements is acquired by eminent domain, the award shall compensate the unit owners affected by the taking for the reduction in value of the units resulting from the acquisition, and the portion of the award attributable to the common elements taken shall be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element shall be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition.

(d) The court decree shall be recorded in every town in which any portion of the common interest community is located.

§ 47-207. Supplemental general principles of law applicable

The principles of law and equity, including the law of corporations and unincorporated associations, the law of real property, and the law relative to capacity to contract, principal and agent, eminent domain, estoppel, fraud, misrepresentation, duress, coercion, mistake, receivership, substantial performance, or other validating or invalidating cause supplement the provisions of this chapter, except to the extent inconsistent with this chapter.

§ 47-208. Construction against implicit repeal

This chapter being a general act intended as a unified coverage of its subject matter, no part of it shall be construed to be impliedly repealed by subsequent legislation if that construction can reasonably be avoided.

§ 47-209. Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or applications, and to this end the provisions of this chapter are severable.

§ 47-210. Unconscionable contracts or contract clauses. Leases involving land or facilities in residential common interest communities that are presumed to be unconscionable *(Applies to Pre-1984 Communities)*

(a) The General Assembly expressly finds that many leases involving the use of land or recreational or other common facilities by residents of a residential common interest community were entered into by parties wholly representative of the interests of a residential common interest developer at a time when the residential common interest community unit owners not only did not control the administration of their residential common interest community, but also had little or no voice in such administration. Such leases often contain numerous obligations on the part of either or both a residential common interest community association and residential common interest community unit owners with relatively few obligations on the part of the lessor. Such lease may or may not be unconscionable in any given case. Nevertheless, the General Assembly finds that a combination of certain onerous obligations and circumstances warrants the establishment of a rebuttable presumption of unconscionability of certain leases, as specified in subsection (d) of this section. The presumption may be rebutted by a lessor upon the showing of additional facts and circumstances to justify and validate what otherwise appears to be an unconscionable lease under this section. Failure of a lease to contain the required number of specified elements shall not preclude a determination of unconscionability of the lease. It is the intent of the General Assembly that this section is remedial and does not create any new cause of action to invalidate any residential common interest community lease, but shall operate as a statutory prescription on procedural matters in actions brought on one or more causes of action existing at the time of the execution of such lease.

(b) The court, on finding as a matter of law that a contract or contract clause was unconscionable at the time the contract was made, may refuse to enforce the contract, enforce the remainder of the contract without the unconscionable clause or limit the application of any unconscionable clause in order to avoid an unconscionable result.

(c) Whenever it is claimed, or appears to the court, that a contract or any contract clause is or may be unconscionable, the parties, in order to aid the court in making the determination, shall be afforded a reasonable opportunity to present evidence as to:

(1) The commercial setting of the negotiations;

(2) Whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests by reason of physical or mental infirmity, illiteracy, inability to understand the language of the agreement or similar factors;

(3) The effect and purpose of the contract or clause; and

(4) If a sale, any gross disparity, at the time of contracting, between the amount charged for the property and the value of that property measured by the price at which similar property was readily obtainable in similar transactions.

A disparity between the contract price and the value of the property measured by the price at which similar property was readily obtainable in similar transactions does not, of itself, render the contract unconscionable.

(d) A lease entered into prior to January 1, 1984, pertaining to use of land or facilities by unit owners in a residential common interest community, is presumed to be unconscionable if:

(1) The lease by its terms requires the lessee to pay an annual rental and other expenses that exceed fifteen per cent of the appraised value of the leased property as improved, provided for the purposes of this subdivision, "annual rental and other expenses" means the amount paid by the lessee during the twelve months immediately preceding the filing of an action under this section as rent and for real estate taxes, insurance, capital improvements and other expenses required to maintain the property under

the lease terms, and "appraised value" means the appraised value placed upon the leased property by a licensed or certified real estate appraiser on a date during the twelve months immediately preceding the filing of an action under this section; and

(2) seven of the following eight elements exist:

(A) The lease was executed by persons none of whom at the time of the execution of the lease were elected by unit owners, other than the declarant;

(B) The lease requires either the association or the unit owners to pay all real estate taxes on the subject real property;

(C) The lease requires either the association or the unit owners to insure buildings or other facilities on the subject real property against fire or any other hazard;

(D) The lease requires either the association or the unit owners to perform some or all maintenance obligations pertaining to the subject real property or facilities located upon the subject real property;

(E) The lease requires either the association or the unit owners to pay rents to the lessor for a period of twenty-one years or more;

(F) The lease provides that failure of the lessee to make payments of rents due under the lease creates, establishes or permits establishment of a lien upon individual units to secure claims for rent;

(G) The lease provides for a periodic rental increase based upon reference to a price index; and

(H) The lease or other common interest community documents require that any transferee of a unit must assume obligations under the lease.

(e) The presumption set forth in subsection (d) of this section may be rebutted by a lessor upon the showing of additional facts and circumstances to justify and validate what otherwise appears to be an unconscionable lease under this section.

(f) Failure of a lease to contain the required number of elements specified in subsection (d) of this section shall not preclude a determination that the lease is unconscionable.

(g) Notwithstanding any provision of the general statutes, neither the statute of limitations nor laches shall prohibit unit owners of a residential common interest community from maintaining a cause of action under this section.

(h) If a court finds that a lease contract or lease contract clause was unconscionable at the time the contract was made, in determining whether to enforce the contract, or enforce the remainder of the contract without the unconscionable clause, or whether to limit the application of any unconscionable clause in order to avoid an unconscionable result, the court shall consider evidence regarding the adverse impact, if any, of any such determination on the interests of third parties, including lenders who may have, in good faith, relied upon such lease provisions, and the court, in formulating such a determination, shall seek to avoid an unjust impact on such third parties and shall make no such determination, the effect of which would be to terminate the common interest community.

§ 47-211. Obligation of good faith

Every contract or duty governed by this chapter imposes an obligation of good faith in its performance or enforcement.

§ 47-212. Remedies to be liberally administered

(a) The remedies provided by this chapter shall be liberally administered to the end that the aggrieved party is put in as good a position as if the other party had fully performed, provided consequential, special or punitive damages may not be awarded except as specifically provided in this chapter or by other rule of law.

(b) Any right or obligation declared by this chapter is enforceable by judicial proceeding.

§ 47-213. Adjustment of dollar amount

(a) From time to time the dollar amount specified in subdivision (3) of subsection (a) of section 47-215 shall change, as provided in subsections (b) and (c) of this section, according to and to the extent of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1967 = 100, compiled by the Bureau of Labor Statistics, United States Department of Labor, (the "Index"). The Index for December, 1979, which was 230, is the Reference Base Index.

(b) The dollar amount specified in subdivision (3) of subsection (a) of section 47-215 and any amount stated in the declaration pursuant to said section shall change on July first of each year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding year and the Reference Base Index is ten per cent or more, but

(1) the portion of the percentage change in the Index in excess of a multiple of ten per cent shall be disregarded and the dollar amount shall change only in multiples of ten per cent of the amount appearing in this chapter on January 1, 1984;

(2) the dollar amount shall not change if the amount required by this section is that currently in effect pursuant to this chapter as a result of earlier application of this section; and

(3) in no event may the dollar amount be reduced below the amount appearing in this chapter on January 1, 1984.

(c) If the Index is revised after December, 1979, the percentage of change pursuant to this section shall be calculated on the basis of the revised Index. If the revision of the Index changes the Reference Base Index, a revised Reference Base Index shall be determined by multiplying the Reference Base Index then applicable by the rebasing factor furnished by the Bureau of Labor Statistics. If the Index is superseded, the index referred to in this section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

§ 47-213a. Relationship of chapter to Electronic Signatures in Global and National Commerce Act

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 USC 7001, et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 USC 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 USC 7003(b).

§ 47-214. Applicability of chapter and amendments thereto to common interest communities

Except as provided in section 47-216, the provisions of this chapter apply to all common interest communities created within this state on or after January 1, 1984. The provisions of chapter 825 do not apply to condominiums created on or after January 1, 1984. Amendments to this chapter apply to all common interest communities created after January 1, 1984, or subjected to this chapter by amendment of the declaration of the common interest community, regardless of when the amendment to this chapter is adopted, except that an amendment to this chapter applies only to events and circumstances occurring on or after the effective date of such amendment to this chapter.

§ 47-215. Applicability to nonresidential, mixed use and small common interest communities, limited expense liability planned communities and common interest communities with a conversion building

(a) Except as provided in subsection (b) of this section with respect to a common interest community containing a conversion building:

(1) If a common interest community contains only units restricted exclusively to nonresidential use:

(A) The common interest community is not subject to this chapter unless the declaration otherwise provides;

(B) The declaration of such a common interest community may provide that this entire chapter applies to the community, that only this part and part II of this chapter apply or that only sections 47-204, 47-205 and 47-206 apply;

(C) If the declaration provides that this entire chapter applies to such a common interest community, the declaration may also require, subject to section 47-210, that:

(i) Notwithstanding section 47-247, any management contract, employment contract, lease of recreational or parking areas or facilities and any other contract or lease between the association and a declarant or an affiliate of a declarant remains effective after the declarant turns over control of the association; and

(ii) notwithstanding section 47-203, purchasers of units must execute proxies, powers of attorney or similar devices in favor of the declarant regarding particular matters enumerated in those instruments.

(2) If a common interest community contains units restricted exclusively to nonresidential purposes and other units that may be used for residential purposes, that common interest community is not subject to this chapter unless the units that may be used for residential purposes would comprise a common interest community in the absence of the nonresidential units or the declaration provides that this chapter applies as provided in subparagraph (B) or (C) of subdivision (1) of this subsection.

(3) If the declaration of a planned community that is not subject to any development right provides that the annual average common expense liability of all units restricted to residential purposes, exclusive of optional user fees and any insurance premiums paid by the association, may not exceed three hundred dollars, as adjusted pursuant to section 47-213, the planned community is subject only to sections 47-204, 47-205 and 47-206 unless the declaration provides that this entire chapter is applicable. However, this exemption applies only if:

(A) The declarant reasonably believes in good faith that the maximum annual common expense liability assessed against the units will be sufficient to pay the expenses of the planned community; and

(B) The declaration provides that the annual common expense liability may not be increased during the period of declarant control without the consent of persons entitled to cast at least eighty per cent of the

votes in the association, including eighty per cent of the votes allocated to units not owned by a declarant or an affiliate of a declarant.

(b) In the case of a common interest community containing a conversion building, sections 47-282 to 47-292, inclusive, apply whether or not the common interest community is exempt from other provisions of this chapter pursuant to subsection (a) of this section. The provisions of sections 47-282 to 47-292, inclusive, apply to a common interest community containing a conversion building created on or after July 8, 1983. The provisions of sections 47-88b to 47-88g, inclusive, do not apply to a condominium containing a conversion building created on or after July 8, 1983.

(c) If a common interest community contains no more than twelve units and

(1) is not subject to any development rights and

(2) does not utilize a master association,

the declarant is not required to deliver a public offering statement pursuant to section 47-263 or 47-264; resale certificates are not required, as provided in section 47-290, and the association is not required to maintain records necessary to comply with section 47-270. A declarant shall not divide real property into two or more common interest communities to avoid the public offering statement requirements of sections 47-263 and 47-264.

§ 47-216. Applicability to preexisting common interest communities

(a) Except as provided in section 47-217, sections 47-202, 47-204, 47-205, 47-206, 47-218, 47-221, 47-222, 47-223, subsections (b), (d), (i) and (j) of section 47-236, sections 47-237, 47-240 and 47-244, subsection (f) of section 47-245, sections 47-250, 47-251, 47-252, 47-253, 47-255, 47-257, 48-258, 47-260, 47-261b, 47-261c, 47-261d, 47-261e, 47-270 and 47-278, as amended by this act, to the extent necessary in construing any of those sections, apply to all common interest communities created in this state before January 1, 1984; but those sections apply only with respect to events and circumstances occurring after January 1, 1984, and do not invalidate existing provisions of the declaration, bylaws or surveys or plans of those common interest communities.

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

§ 47-217. Exception for certain preexisting common interest communities

(a) If a common interest community created within this state before January 1, 1984,

(1) contains no more than twelve units and is not subject to any development rights,

(2) contains only units restricted to nonresidential use, or

(3) is a common interest community described in subdivision (3) of subsection (a) of section 47-215,

it is subject only to sections 47-204, 47-205 and 47-206 unless the declaration is amended in conformity with applicable law and with the procedures and requirements of the declaration to take advantage of the provisions of section 47-218, in which case all the sections enumerated in section 47-216 apply to that common interest community.

(b) If a common interest community created within this state before January 1, 1984, was formed pursuant to a special act of the legislature, it is not subject to the provisions of this chapter unless a majority of the unit owners vote, in conformity with applicable law, to subject such common interest community to the provisions of this chapter. If a majority of the unit owners so vote, the provisions of this chapter apply to such common interest community in the manner described in section 47-216 and this section.

§ 47-218. Applicability to amendments to governing instruments *(Applies to Pre-1984 Communities)*

(a) The declaration, bylaws or surveys and plans of any common interest community created before January 1, 1984, may be amended to achieve any result permitted by this chapter regardless of what applicable law provided before January 1, 1984.

(b) Except as otherwise provided in subsections (i) and (j) of section 47-236, an amendment to the declaration, bylaws or surveys and plans authorized by subsection (a) of this section shall be adopted in conformity with any procedures and requirements for amending the instruments specified by those instruments or, if there are none, in conformity with the amendment procedures of this chapter. If an amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions in this chapter also apply to that person.

§ 47-219. Applicability to out-of-state common interest communities

This chapter does not apply to common interest communities or units located outside this state, but the public offering statement provisions of sections 47-263 to 47-269, inclusive, apply to all contracts for the disposition of a unit in that common interest community signed in this state by any party following an offer made in this state unless exempt under subsection (b) of section 47-262.

§ 47-219a. Arrangements re real property costs. Separate common interest community not created thereby

(a) An arrangement between the associations for two or more common interest communities to share the costs of real property taxes, insurance premiums, services, maintenance or improvements of real property or other activities specified in their arrangement or declarations does not create a separate common interest community.

(b) An arrangement between an association and the owner of real property that is not part of a common interest community to share the costs of real property taxes, insurance premiums, services, maintenance or improvements of real property or other activities specified in their arrangement does not create a separate common interest community, except that assessments against the units in the common interest community required by the arrangement must be included in the periodic budget for the common interest community, and the arrangement must be disclosed in all public offering statements and resale certificates required by this chapter.

§ 47-219b. Exemption re covenant to share costs or other obligations

A covenant that requires the owners of twelve or fewer separately owned parcels of real property to share costs or other obligations associated with a party wall, driveway, well, septic system or other similar use does not create a common interest community unless a declaration otherwise provides.

PART II
CREATION, ALTERATION AND TERMINATION OF COMMON INTEREST COMMUNITIES

§ 47-220. Creation of common interest community

(a) A common interest community may be created pursuant to this chapter only by recording a declaration executed in the same manner as a deed and, in a cooperative, by conveying the real property subject to that declaration to the association. The declaration shall be recorded in every town in which any portion of the common interest community is located and shall be indexed in the grantee's index in the name of the common interest community and the association and in the grantor's index in the name of each person executing the declaration.

(b) A declaration, or an amendment to a declaration adding units, may not be recorded unless all structural components of all buildings containing or comprising any units thereby created are substantially completed in accordance with the plans, as evidenced by a recorded certificate of completion executed by a registered engineer, surveyor or architect.

§ 47-221. Unit boundaries *(Applies to Pre-1984 Communities)*

Except as provided by the declaration:

(1) If walls, floors or ceilings are designated as boundaries of a unit, all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the unit, and all other portions of the walls, floors or ceilings are a part of the common elements.

(2) If any chute, flue, duct, wire, conduit, bearing wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a unit, any portion thereof serving only that unit is a limited common element allocated solely to that unit, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.

(3) Subject to subsection (2) of this section, all spaces, interior partitions and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(4) Any shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios and all exterior doors and windows or other fixtures designed to serve a single unit, but located outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

§ 47-222. Construction and validity of declaration, bylaws and rules. Marketability of title. Recording of surveys and plans *(Applies to Pre-1984 Communities)*

(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities does not apply to defeat any provision of the declaration or of the bylaws or rules of the association.

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this chapter.

(d) Title to a unit and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this chapter. Whether a substantial failure impairs marketability is not affected by this chapter.

(e) In any case in which the surveys or plans required pursuant to section 47-228, as identified in the declaration, are not recorded simultaneously with the remainder of the declaration but are recorded thereafter, the failure to record the survey or plans simultaneously with the remainder of the declaration is an insubstantial failure of the declaration to comply with this chapter.

§ 47-223. Description of unit *(Applies to Pre-1984 Communities)*

A description of a unit which sets forth the name of the common interest community, the recording data for the original declaration, the town in which the common interest community is located and the identifying number of the unit, is a legally sufficient description of that unit and all rights, obligations and interests appurtenant to that unit which were created by the declaration or bylaws as amended or restated.

§ 47-224. Contents of declaration

(a) The declaration shall contain:

(1) The names of the common interest community and the association and a statement that the common interest community is either a condominium, cooperative or planned community;

(2) The name of every town in which any part of the common interest community is situated;

(3) A legally sufficient description of the real property included in the common interest community;

(4) A statement of the maximum number of units that the declarant reserves the right to create;

(5) In a condominium or planned community, a description of the boundaries of each unit created by the declaration, including the unit's identifying number or, in a cooperative, a description, which may be by surveys or plans, of each unit created by the declaration, including the unit's identifying number, its size or number of rooms and its location within a building if it is within a building containing more than one unit;

(6) A description of any limited common elements, other than those specified in subdivisions (2) and (4) of section 47-221, as provided in subdivision (10) of subsection (b) of section 47-228 and, in a planned community, any real property that is or must become common elements;

(7) A description of any real property, except real property subject to development rights, that may be allocated subsequently as limited common elements, other than limited common elements specified in

subdivisions (2) and (4) of section 47-221, together with a statement that they may be so allocated;

(8) A description of any development rights, as defined in subsection (16) of section 47-202, and other special declarant rights, as defined in subsection (33) of section 47-202, reserved by the declarant, together with a legally sufficient description of the real property to which each of those rights applies and a time limit within which each of those rights must be exercised;

(9) If any development right may be exercised with respect to different parcels of real property at different times, a statement to that effect together with

(A) either a statement fixing the boundaries of those portions and regulating the order in which those portions may be subjected to the exercise of each development right or a statement that no assurances are made in those regards, and

(B) a statement as to whether, if any development right is exercised in any portion of the real property subject to that development right, that development right must be exercised in all or in any other portion of the remainder of that real property;

(10) Any other conditions or limitations under which the rights described in subdivision (8) of this subsection may be exercised or will lapse;

(11) An allocation to each unit of the allocated interests in the manner described in section 47-226;

(12) Any restrictions

(A) on alienation of the units, including any restrictions on leasing which exceed the restrictions on leasing units which executive boards may impose pursuant to subdivision (3) of subsection (f) of section 47-261b, and

(B) on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation or casualty loss to the unit or to the common interest community, or on termination of the common interest community;

(13) The recording data for recorded easements and licenses appurtenant to or included in the common interest community or to which any portion of the common interest community is or may become subject by virtue of a reservation in the declaration; and

(14) All matters required by sections 47-225 to 47-228, inclusive, sections 47-234 and 47-235 and subsection (d) of section 47-245.

(b) The declaration may contain any other matters not inconsistent with this chapter that the declarant considers appropriate, including any restrictions on the uses of a unit or the number or other qualifications of persons who may occupy units.

§ 47-225. Leasehold common interest communities

(a) Any lease the expiration or termination of which may terminate the common interest community or reduce its size, or a memorandum thereof, shall be recorded. Every lessor of those leases in a condominium or planned community shall sign the declaration. The declaration shall state:

(1) The recording data for the lease or a statement of where the complete lease may be inspected;

(2) the date on which the lease is scheduled to expire;

(3) a legally sufficient description of the real property subject to the lease;

(4) any rights of the unit owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(5) any rights of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(6) any rights of the unit owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

(b) *(Applies to Pre-1984 Communities)* After the declaration for a leasehold condominium or leasehold planned community is recorded, neither the lessor nor the lessor's successor in interest may terminate the leasehold interest of a unit

owner who makes timely payment of a unit owner's share of the rent and otherwise complies with all covenants which, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest in a condominium or planned community is not affected by failure of any other person to pay rent or fulfill any other covenant.

(c) *(Applies to Pre-1984 Communities)* Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and reversionary or remainder interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.

(d) *(Applies to Pre-1984 Communities)* If the expiration or termination of a lease decreases the number of units in a common interest community, the allocated interests shall be reallocated in accordance with subsection (a) of section 47-206 as if those units had been taken by eminent domain. Reallocations shall be confirmed by an amendment to the declaration prepared, executed and recorded by the association.

(e) A lease satisfying the description in subsection (a) of this section is not subject to sections 47a-1 to 47a-20e, inclusive.

§ 47-226. Allocation of interests

(a) The declaration shall allocate to each unit:

(1) In a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association, and a portion of the votes in the association;

(2) in a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association, and a portion of the votes in the association; and

(3) in a planned community, a fraction or percentage of the common expenses of the association, and a portion of the votes in the association.

(b) The declaration shall state the formulas used to establish allocations of interests. Those allocations may not discriminate in favor of units owned by the declarant or an affiliate of the declarant.

(c) If units may be added to or withdrawn from the common interest community, the declaration shall state the formulas to be used to reallocate the allocated interests among all units included in the common interest community after the addition or withdrawal.

(d) The declaration may provide:

(1) That different allocations of votes shall be made to the units on particular matters specified in the declaration;

(2) for cumulative voting only for the purpose of electing members of the executive board; and

(3) for class voting on specified issues affecting the class if necessary to protect valid interests of the class.

A declarant may not use cumulative or class voting for the purpose of evading any limitation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.

(e) Except for minor variations due to rounding, the sum of the common expense liabilities and, in a condominium, the sum of the undivided interests in the common elements allocated at any time to all the units must each equal one if stated as a fraction or one hundred per cent if stated as a percentage. In the event of discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(f) In a condominium, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void.

(g) In a cooperative, any purported conveyance, encumbrance, judicial sale or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

(h) In a planned community created after January 1, 1984, unless the declaration provides for a different allocation permitted under this chapter, the common expenses of the association and the votes in the association are allocated equally among the units.

§ 47-227. Limited common elements

(a) Except for the limited common elements described in subdivisions (2) and (4) of section 47-221 and except to the extent a right to allocate a limited common element is reserved pursuant to subsection (c) of this section, the declaration shall specify to which unit or units each limited common element is allocated. An allocation may not be altered without the consent of the unit owners whose units are affected.

(b) Except as the declaration otherwise provides, a limited common element may be reallocated by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made. The persons executing the amendment shall provide a copy thereof to the association, which shall record it. The amendment shall be recorded in the names of the parties and the common interest community.

(c) A common element not previously allocated as a limited common element may be so allocated only pursuant to provisions in the declaration made in accordance with subdivision (7) of subsection (a) of section 47-224. The allocations shall be made by amendments to the declaration.

§ 47-228. Surveys and plans

(a) Surveys and plans are required for condominiums and planned communities, but are not required for cooperatives. Any surveys and plans are a part of the declaration. Separate surveys and plans are not required by this chapter if all the information required by this section is contained in either a survey or plan. Each survey and plan shall be clear and legible and contain a certification that the survey or plan contains all information required by this section.

(b) Each survey shall show or project:

(1) The name and a survey or general schematic map of the entire common interest community;

(2) the location and dimensions of all real property not subject to development rights, or subject only to the development right to withdraw, and the location and dimensions of all existing improvements within that real property;

(3) a legally sufficient description of any real property subject to development rights, labeled to identify the rights applicable to each parcel;

(4) the extent of any encroachments by or on any portion of the common interest community;

(5) to the extent feasible, a legally sufficient description of all easements serving or burdening any portion of the common interest community;

(6) except as provided in subsection (h) of this section, the approximate location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (d) of this section and that unit's identifying number;

(7) except as provided in subsection (h) of this section, the approximate location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) of this section and that unit's identifying number;

(8) a legally sufficient description of any real property in which the unit owners will own only an estate for years, labeled as "leasehold real property";

(9) the distance between noncontiguous parcels of real property comprising the common interest community;

(10) the approximate location and dimensions of any porches, decks, balconies, garages or patios allocated as limited common elements and show or contain a narrative description of any other limited common elements; and

(11) in the case of real property not subject to development rights, all other matters customarily shown on land surveys.

(c) A survey may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the common interest community. Any contemplated improvement shown shall be labeled either "MUST BE BUILT" or "NEED NOT BE BUILT".

(d) Except as provided in subsection (h) of this section, to the extent not shown or projected on the surveys, plans of the units shall show or project:

(1) The approximate location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;

(2) the approximate location of any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and

(3) the approximate location of any units in which the declarant has reserved the right to create additional units or common elements identified appropriately.

(e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside a building have the same elevation as the horizontal boundaries of the inside part and need not be depicted on the surveys and plans.

(f) On exercising any development right, the declarant shall record either new surveys and plans necessary to conform to the requirements of subsections (a), (b) and (d) of this section, or new certifications of surveys and plans previously recorded if those surveys and plans otherwise conform to the requirements of those subsections.

(g) Any certification of a survey or plan required by this section shall be made by a licensed surveyor, architect, engineer or landscape architect and such certification shall be made in accordance with chapter 390, 391 or 396.

(h) Surveys and plans need not show the location and dimensions of the units' boundaries or their limited common elements if:

(1) The survey shows the location and dimensions of all buildings containing or comprising the units; and

(2) The declaration includes other information that shows the approximate layout of the units in those buildings and contains a narrative or graphic description of the limited common elements allocated to those units.

§ 47-229. Exercise of development rights

(a) To exercise any development right reserved under subdivision (8) of subsection (a) of section 47-224, the declarant shall prepare, execute and record an amendment to the declaration and in a condominium or planned community comply with section 47-228. The declarant is the unit owner of any units thereby created. The amendment to the declaration shall assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection (b) of this section, reallocate the allocated interests among all units. The amendment shall describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by section 47-227.

(b) Development rights may be reserved within any real property added to the common interest community if the amendment adding that real property includes all matters required by section 47-224 or 47-225, as the case may be, and, in a condominium or planned community, the surveys and plans include all matters required by section 47-228. This provision does not extend the time limit on the exercise of development rights imposed by the declaration pursuant to subdivision (8) of subsection (a) of section 47-224.

(c) Whenever a declarant exercises a development right to subdivide or convert a unit previously created into additional units, common elements or both:

(1) If the declarant converts the unit entirely to common elements, the amendment to the declaration shall reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain; and

(2) if the declarant subdivides the unit into two or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration shall reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.

(d) If the declaration provides, pursuant to subdivision (8) of subsection (a) of section 47-224, that all or a portion of the real property is subject to a right of withdrawal:

(1) If all the real property is subject to withdrawal, and the declaration does not describe separate portions of real property subject to that right, none of the real property may be withdrawn after a unit has been conveyed to a purchaser; and

(2) if any portion is subject to withdrawal, it may not be withdrawn after a unit in that portion has been conveyed to a purchaser.

(e) If a declarant fails to exercise any development right within the time limit described in the declaration pursuant to subdivision (8) of subsection (a) of section 47-224 and in accordance with any conditions or limitations described in the declaration pursuant to subdivision (10) of said subsection, or records an instrument surrendering a development right, that development right shall lapse.

§ 47-230. Alterations of units

Subject to the provisions of the declaration and other provisions of law, a unit owner:

(1) May make any improvements or alterations to his unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common interest community;

(2) May not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the common interest community, without permission of the association;

(3) After acquiring an adjoining unit or an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common interest community. Removal of partitions or creation of apertures under this subsection is not an alteration of boundaries.

§ 47-230a. Display of object on entry doorframe which is motivated by observance of religious practice or belief. Restrictions.

(a) No person may prohibit or hinder the owner, lessee or sublessee of a condominium unit from attaching to an entry door or entry door frame of such unit an object the display of which is motivated by observance of a religious practice or sincerely held religious belief.

(b) Subsection (a) of this section shall not prohibit the enforcement or adoption of a bylaw that, to the extent allowed by the first amendment to the United States Constitution and section 3 of article first of the Constitution of the state, prohibits the display or affixing of an item on an entry door or entry door frame to the owner's, lessee's or sublessee's unit when such item:

(1) Threatens the public health or safety;

(2) hinders the opening and closing of an entry door;

(3) violates any federal, state or local law;

(4) contains graphics, language or any display that is obscene or otherwise patently offensive;

(5) individually or in combination with each other item displayed or affixed on an entry door frame has a total size greater than twenty-five square inches; or

(6) individually or in combination with each other item displayed or affixed on an entry door has a total size greater than four square feet.

§ 47-231. Relocation of unit boundaries

(a) Subject to the provisions of the declaration and any provisions of law, the boundaries between adjoining units may be relocated by an amendment to the declaration on application to the association by the owners of those units. If the owners of the adjoining units have specified a reallocation between their units of their allocated interests, the application shall state the proposed reallocations. Unless the executive board determines, within thirty days after receipt of the application, that the reallocations are unreasonable, the association shall consent to the reallocation and prepare an amendment that identifies the units involved,

states the reallocations and indicates the association's consent. The amendment shall be executed by those unit owners, contain words of conveyance between them, and, on recordation, be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the association.

(b) Subject to the provisions of the declaration and other provisions of law, boundaries between units and common elements may be relocated to incorporate common elements within a unit by an amendment to the declaration upon application to the association by the owner of the unit who proposes to relocate a boundary. Unless the declaration provides otherwise, the amendment may be approved only if persons entitled to cast at least sixty-seven per cent of the votes in the association, including sixty-seven per cent of the votes allocated to units not owned by the declarant, agree to the action. The amendment may describe any fees or charges payable by the owner of the affected unit in connection with the boundary relocation and the fees and charges are assets of the association. The amendment must be executed by the unit owner of the unit whose boundary is being relocated and by the association, contain words of conveyance between them and on recordation be indexed in the name of the unit owner and the association as grantor or grantee, as appropriate.

(c) The association

(1) in a condominium or planned community shall prepare and record surveys or plans necessary to show the altered boundaries of affected units, and their dimensions and identifying numbers, and

(2) in a cooperative shall prepare and record amendments to the declaration, including any plans necessary to show or describe the altered boundaries of affected units, and their dimensions and identifying numbers.

§ 47-232. Subdivision of units

(a) If the declaration expressly so permits, a unit may be subdivided into two or more units. Subject to the provisions of the declaration and any provisions of law, on application of a unit owner to subdivide a unit, the association shall prepare, execute and record an amendment to the declaration, including in a condominium or planned community the surveys and plans, subdividing that unit.

(b) The amendment to the declaration shall be executed by the owner of the unit to be subdivided, assign an identifying number to each unit created and reallocate the allocated interests formerly allocated to the subdivided unit to the new units in any reasonable manner prescribed by the owner of the subdivided unit or on any other basis the declaration requires.

§ 47-233. Monuments as boundaries

The existing physical boundaries of a unit or the physical boundaries of a unit reconstructed in substantial accordance with the description contained in the original declaration are its legal boundaries, rather than the boundaries derived from the description contained in the original declaration, regardless of vertical or lateral movement of the building or minor variance between those boundaries and the boundaries derived from the description contained in the original declaration. This section does not relieve a unit owner of liability in case of his wilful misconduct or relieve a declarant or any other person of liability for failure to adhere to any surveys and plans or, in a cooperative, to any representation in the public offering statement.

§ 47-234. Use for sales purposes

A declarant may maintain sales offices, management offices and models in units or on common elements in the common interest community only if the declaration so provides and specifies the rights of a declarant with regard to the number, size, location and relocation thereof. In a cooperative or condominium, any sales office, management office or model not designated a unit by the declaration is a common element. If a declarant ceases to be a unit owner, he ceases to have any rights with regard to such a common element unless it is removed promptly from the common interest community in accordance with a right to remove reserved in the declaration. Subject to any limitations in the declaration, a declarant may maintain signs on the common elements advertising the common interest community. This section is subject to the provisions of other state law and to local ordinances.

§ 47-235. Easement and use rights

(a) Subject to the provisions of the declaration, a declarant has such an easement through the common elements as may be reasonably necessary for the purpose of discharging the declarant's obligations or exercising special declarant rights, whether arising under this chapter or reserved in the declaration.

(b) Subject to the provisions of subdivision (6) of subsection (a) of section 47-244 and section 47-254, the unit owners have an easement in the common elements for access to their units.

(c) Subject to the declaration and rules, the unit owners have a right to use the common elements that are not limited common elements and all real property that must become common elements for all appropriate purposes.

§ 47-236. Amendment of declaration

(a) Except in cases of amendments that may be executed by a declarant under subsection (f) of section 47-228 or section 47-229, or by the association under section 47-206, subsection (d) of section 47-225, subsection (c) of section 47-227, subsection (a) of section 47-231 or section 47-232, or by certain unit owners under subsection (b) of section 47-227, subsection (a) of section 47-231, subsection (b) of section 47-232, subsection (b) of section 47-237 or section 47-242, and except as limited by subsections (d) and (f) of this section, the declaration, including any surveys and plans, may be amended only as follows:

(1) By vote or agreement of unit owners of units to which at least sixty-seven per cent of the votes in the association are allocated, unless the declaration specifies either a larger percentage or a smaller percentage, but not less than a majority, for all amendments or for specific subjects of amendment;

(2) The declaration may provide that all amendments or specific subjects of amendment may be approved by the unit owners of units having any of the percentages of votes, as provided in subdivision (1) of this subsection, of a specified group of units that would be affected by the amendment, rather than all of the units in the common interest community; or

(3) The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.

(b) *(Applies to Pre-1984 Communities)* No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration shall be recorded in every town in which any portion of the common interest community is located and is effective only on recordation. An amendment, except an amendment pursuant to subsection (a) of section 47-231, shall be indexed in the grantee's index in the name of the common interest community and the association and in the grantor's index in the name of the parties executing the amendment.

(d) *(Applies to Pre-1984 Communities)* Except in the case of the exercise of development rights pursuant to section 47-229 or to the extent otherwise expressly permitted or required by other provisions of this chapter, with respect to a common interest community, whether created before, on or after January 1, 1984, no amendment may create or increase special declarant rights, increase the number of units or change the boundaries of any unit or the allocated interests of a unit, in the absence of unanimous consent of the unit owners.

(e) Amendments to the declaration required by this chapter to be recorded by the association shall be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.

(f) An amendment to the declaration may prohibit or materially restrict the permitted uses or occupancy of a unit or the number or other qualifications of persons who may occupy units only by vote or agreement of unit owners of units to which at least eighty per cent of the votes in the association are allocated, unless the declaration specifies that a larger percentage of unit owners must vote or agree to that amendment or that such an amendment may be approved by the unit owners of units having at least eighty per cent of the votes of a specified group of units that would be affected by the amendment. An amendment approved under this subsection must provide reasonable protection for a use or occupancy permitted at the time the amendment was adopted.

(g) The time limits specified in the declaration pursuant to subdivision (8) of subsection (a) of section 47-224, within which reserved development rights and special declarant rights must be exercised may be extended, the number of units may be increased and new development rights or other special declarant rights may be created by amendment to the declaration if persons entitled to cast at least eighty per cent of the votes in the association, including eighty per cent of the votes allocated to units not owned by the declarant, agree to that action. The amendment must identify the association or other persons who hold any new rights that are created. Notice of the proposed amendment to the declaration must be delivered in a record to all persons holding development rights or security interests in those rights. Notwithstanding the provisions of subsection (c) of this section, the amendment to the declaration is effective thirty days after the amendment is recorded and notice is delivered unless any of the persons entitled to notice under this subsection records an objection in a record within the

thirty-day period, in which case the amendment is void, or unless all of the persons entitled to notice under this subsection consent in a record at the time the amendment is recorded, in which case the amendment is effective when recorded.

(h) Provisions in the declaration creating special declarant rights that have not expired may not be amended without the consent of the declarant.

(i) *(Applies to Pre-1984 Communities)* If any provision of this chapter or of the declaration or bylaws of any common interest community created before, on or after January 1, 1984, requires the consent of a person holding a security interest in a unit as a condition to the effectiveness of any amendment to the declaration or bylaws, that consent shall be deemed granted if a refusal to consent in a record is not received by the association within forty-five days after the association delivers notice of the proposed amendment to the holder of the interest or mails the notice to the holder of the interest by certified mail, return receipt requested. The association may rely on the last-recorded security interest of record in delivering or mailing notice to the holder of that interest. Notwithstanding any provision of this section, an amendment to the declaration or bylaws that affects the priority of a holder's security interest, other than an amendment regarding the priority of the association's lien authorized by section 47-258, as amended by this act, or the ability of that holder to foreclose its security interest may not be adopted without that holder's consent in a record if the declaration or bylaws require that consent as a condition to the effectiveness of the amendment.

(j) *(Applies to Pre-1984 Communities)* If the declaration or bylaws of a common interest community, whether created before, on or after January 1, 1984, contains a provision requiring that amendments to the declaration or bylaws, other than amendments described in subsection (d) of this section, may be adopted only by the vote or agreement of unit owners of units to which more than eighty per cent of the votes in the association are allocated, such a proposed amendment shall be deemed approved if:

(1) (A) Unit owners of units to which more than eighty per cent of the votes in the association are allocated vote for or agree to the proposed amendment;

(B) No unit owner votes against the proposed amendment; and

(C) Notice of the proposed amendment is delivered to the unit owners holding the votes in the association that have not voted or agreed to the proposed amendment and no objection in a record to the proposed amendment is received by the association within thirty days after the association delivers notice; or

(2) Unit owners of units to which more than eighty per cent of the votes in the association are allocated vote for or agree to the proposed amendment but at least one unit owner objects to the proposed amendment and, pursuant to an action brought by the association in the Superior Court against all objecting unit owners, the court finds that the objecting unit owner or owners do not have a unique minority interest, different in kind from the interests of the other unit owners, that the voting requirement of the declaration was intended to protect.

§ 47-237. Termination of common interest community *(Applies to Pre-1984 Communities)*

(a) Except in the case of a taking of all the units by eminent domain, foreclosure against an entire cooperative of a security interest that has priority over the declaration, or in the circumstances described in subsection (m) of this section, a common interest community may be terminated only by agreement of unit owners of units to which at least eighty per cent of the votes in the association are allocated, or any larger percentage the declaration specifies, and with any other approvals required by the declaration. The declaration may specify a smaller percentage, but in no event less than a majority of the votes in the association, only if all of the units are restricted exclusively to nonresidential uses.

(b) An agreement to terminate shall be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof shall be recorded in every town in which a portion of the common interest community is situated and is effective only on recordation.

(c) In the case of a condominium or planned community containing only units having horizontal boundaries described in the declaration, a termination agreement may provide that all of the common elements and units of the common interest community shall be sold following termination. If, pursuant to the agreement, any

real property in the common interest community is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

(d) In the case of a condominium or planned community containing any units not having horizontal boundaries described in the declaration, a termination agreement may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or all unit owners consent to the sale.

(e) The association, on behalf of the unit owners, may contract for the sale of real property in a common interest community, but the contract is not binding on the unit owners until approved pursuant to subsections (a) and (b) of this section. If any real property is to be sold following termination, title to that real property, on termination, vests in the association as trustee for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to unit owners and lien holders, as their interests may appear, in accordance with subsections (h), (i) and (j) of this section. Unless otherwise specified in the termination agreement, as long as the association holds title to the real property, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real property that formerly constituted the unit. During the period of that occupancy, each unit owner and the unit owner's successors in interest remain liable for all assessments and other obligations imposed on unit owners by this chapter or the declaration.

(f) In a condominium or planned community, if the real property constituting the common interest community is not to be sold following termination, title to the common elements and, in a common interest community containing only units having horizontal boundaries described in the declaration, title to all the real property in the common interest community, vest in the unit owners on termination as tenants in common in proportion to their respective interests as provided in subsection (j) of this section, and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real property that formerly constituted the unit.

(g) Following termination of the common interest community, the proceeds of any sale of real property, together with the assets of the association, are held by the association as trustee for unit owners and holders of liens on the units as their interests may appear.

(h) Following termination of a condominium or planned community, creditors of the association holding liens on the units, which were recorded before termination, may enforce those liens in the same manner as any lien holder. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

(i) In a cooperative, the declaration may provide that all creditors of the association have priority over any interests of unit owners and creditors of unit owners. In that event, following termination, creditors of the association holding liens on the cooperative which were recorded before termination may enforce their liens in the same manner as any lien holder, and any other creditor of the association is to be treated as if he had perfected a lien against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have that priority:

(1) The lien of each creditor of the association which was perfected against the association before termination becomes, on termination, a lien against each unit owner's interest in the unit as of the date the lien was perfected;

(2) Any other creditor of the association is to be treated on termination as if the creditor had perfected a lien against each unit owner's interest immediately before termination;

(3) The amount of the lien of an association's creditor described in subdivisions (1) and (2) of this subsection against each of the unit owners' interest shall be proportionate to the ratio which each unit's common expense liability bears to the common expense liability of all of the units;

(4) The lien of each creditor of each unit owner which was perfected before termination continues as a lien against that unit owner's unit as of the date the lien was perfected; and

(5) The assets of the association shall be distributed to all unit owners and all lien holders as their interests may appear in the order described above.

Creditors of the association are not entitled to payment from any unit owner in excess of the amount of the creditor's lien against that unit owner's interest.

(j) The respective interests of unit owners referred to in subsections (e), (f), (g), (h) and (i) of this section are as follows:

(1) Except as provided in subdivision (2) of this subsection, the respective interests of unit owners are the fair market values of their units, allocated interests and any limited common elements immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers shall be distributed to the unit owners and becomes final unless disapproved within thirty days after distribution by unit owners of units to which twenty-five per cent of the votes in the association are allocated. The proportion of any unit owner's interest to that of all unit owners is determined by dividing the fair market value of that unit owner's unit and its allocated interests by the total fair market values of all the units and their allocated interests.

(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are their respective common expense liabilities immediately before the termination.

(k) In a condominium or planned community, except as provided in subsection (l) of this section, foreclosure or enforcement of a lien or encumbrance against the entire common interest community does not terminate, of itself, the common interest community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common interest community, other than withdrawable real property, does not withdraw that portion from the common interest community. Foreclosure or enforcement of a lien or encumbrance against withdrawable real property, or against common elements that have been subjected to a security interest by the association under section 47-254, does not withdraw, of itself, that real property from the common interest community, but the person taking title thereto may require from the association, on request, an amendment excluding the real property from the common interest community.

(l) In a condominium or planned community, if a lien or encumbrance against a portion of the real property comprising the common interest community has priority over the declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, on foreclosure, may record an instrument excluding the real property subject to that lien or encumbrance from the common interest community.

(m) If substantially all the units in a common interest community have been destroyed or abandoned or are uninhabitable and the available methods for giving notice under section 47-261c, as amended by this act, of a meeting of unit owners to consider termination under this section will not likely result in receipt of the notice, the executive board or any other interested person may commence an action in the Superior Court seeking to terminate the common interest community. During the pendency of the action, the court may issue whatever orders it considers appropriate, including appointment of a receiver. After a hearing, the court may terminate the common interest community or reduce its size pursuant to this section, notwithstanding that eighty per cent of the unit owners did not vote or agree to that action, and may issue any other order the court considers to be in the best interest of the unit owners and persons holding a property interest in the common interest community.

§ 47-238. Rights of secured lenders

(a) The declaration may require that all or a specified number or percentage of the lenders who hold security interests encumbering the units or who have extended credit to the association and whose consent rights have been granted by agreement, approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but no requirement for approval may operate to

(1) deny or delegate control over the general administrative affairs of the association by the unit owners or the executive board, or

(2) prevent the association or the executive board from commencing, intervening in or settling any litigation or proceeding, or

(3) prevent any insurance trustee or the association from receiving and distributing any insurance proceeds except pursuant to section 47-255.

(b) A lender who has extended credit to an association secured by an assignment of income or an encumbrance on the common elements may enforce its security agreement in accordance with its terms, subject to the requirements of this chapter and other law. Requirements that the association must deposit its periodic common charges before default with the lender to which the association's income has been assigned, or increase its periodic common charges at the lender's direction by amounts reasonably necessary to amortize the loan in accordance with its terms, or to have a court appointed receiver of the association collect and disburse common charges after default, do not violate the prohibitions on lender approval contained in subsection (a) of this section.

§ 47-239. Master associations

(a) If the declaration provides that any of the powers described in section 47-244 are to be exercised by, or may be delegated to, a profit or nonprofit corporation or unincorporated association that exercises those or other powers on behalf of one or more common interest communities or for the benefit of the unit owners of one or more common interest communities, all provisions of this chapter applicable to unit owners' associations apply to any such corporation or unincorporated association, except as modified by this section.

(b) Unless it is acting in the capacity of an association described in section 47-243, a master association may exercise the powers set forth in subdivision (2) of subsection (a) of section 47-244 only to the extent expressly permitted in the declarations of common interest communities which are part of the master association or expressly described in the delegations of power from those common interest communities to the master association.

(c) If the declaration of any common interest community provides that the executive board may delegate certain powers to a master association, the members of the executive board have no liability for the acts or omissions of the master association with respect to those powers following delegation.

(d) The rights and responsibilities of unit owners with respect to the unit owners' association set forth in sections 47-245, 47-250, 47-251, 47-252 and 47-254 apply in the conduct of the affairs of a master association only to persons who elect the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this chapter.

(e) Even if a master association is also an association described in section 47-243, the certificate of incorporation or other instrument creating the master association and the declaration of each common interest community the powers of which are assigned by the declaration or delegated to the master association, may provide that the executive board of the master association shall be elected after the period of declarant control in any of the following ways:

(1) All unit owners of all common interest communities subject to the master association may elect all members of the master association's executive board.

(2) All members of the executive boards of all common interest communities subject to the master association may elect all members of the master association's executive board.

(3) All unit owners of each common interest community subject to the master association may elect specified members of the master association's executive board.

(4) All members of the executive board of each common interest community subject to the master association may elect specified members of the master association's executive board.

(f) No person shall provide or offer to any member of the master association's executive board or a person seeking election as a member of the master association's executive board, and no member of the master association's executive board or a person seeking election as a member of the master association's executive board shall accept, any item of value based on any understanding that the vote, official action or judgment of such member or person seeking election would be or has been influenced thereby.

§ 47-239a. Termination and Dissolution of Master Association. Establishment of Nonstock Corporation

In the case of a master association:

(1) That is comprised of common interest communities consisting of not less than four hundred units but not more than six hundred units,

(2) in which the master association is governed by a board of directors consisting of one individual representing each constituent common interest community, who is on the board of directors of the constituent common interest community, and

(3) in which the master association board of directors has a weighted vote based on the number of units in the constituent common interest community represented by the director:

(A) On the written consent of unit owners owning not less than twenty-five per cent of the units in the constituent common interest communities of such master association, the master association shall be terminated and dissolved and shall convey all assets owned by the master association to a new nonstock corporation that shall be formed not later than sixty days after the termination and dissolution of the master association.

(B) The associations of unit owners of the constituent common interest communities shall be the members of the new nonstock corporation. Each of the member associations shall appoint one person to be a member of the board of directors of the new nonstock corporation. Each member of the board of directors of the new nonstock corporation shall have one equal vote on matters to be voted on by the board of directors.

(C) The unit owners of each constituent common interest community shall have equal rights to utilize the facilities owned by the new nonstock corporation and each constituent common interest community shall share in the cost of the operation, maintenance, repair and replacement of the facilities of the new nonstock corporation on the basis of the number of units in each constituent common interest community as a percentage of the total number of units in all constituent common interest communities that comprise the master association.

(D) The Superior Court shall have jurisdiction to enter such orders as may be appropriate in the circumstances to implement the termination and transfer and the organization and operation of the new nonstock corporation.

§ 47-240. Merger or consolidation of common interest communities *(Applies to Pre-1984 Communities)*

(a) Any two or more common interest communities of the same form of ownership, by agreement of the unit owners as provided in subsection (b) of this section, may be merged or consolidated into a single common interest community. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant common interest community is the legal successor, for all purposes, of all of the preexisting common interest communities, and the operations and activities of all associations of the preexisting common interest communities are merged or consolidated into a single association that holds all powers, rights, obligations, assets and liabilities of all preexisting associations.

(b) An agreement of two or more common interest communities to merge or consolidate pursuant to subsection (a) of this section shall be evidenced by an agreement prepared, executed, recorded and certified by the president of the association of each of the preexisting common interest communities following approval by owners of units to which are allocated the percentage of votes in each common interest community required to terminate that common interest community. The agreement shall be recorded in every town in which a portion of the common interest community is located and is not effective until recorded.

(c) Every merger or consolidation agreement shall provide for the reallocation of the allocated interests in the new association among the units of the resultant common interest community either by stating

(1) the reallocations or

(2) the formulas on which they are based.

§ 47-241. Addition of unspecified real property

In a planned community, if the right is originally reserved in the declaration, the declarant, in addition to any other development right, may amend the declaration at any time during as many years as are specified in the declaration to add additional real property to the planned community without describing the location of that real property in the original declaration; but the amount of real property added to the planned community pursuant to this section may not exceed ten per cent of the real property described in subdivision (3) of subsection (a) of section 47-224 and the declarant may not in any event increase the number of units in the planned community beyond the number stated in the original declaration pursuant to subdivision (5) of said subsection.

§ 47-241a. Master planned communities

(a) The declaration for a common interest community may state that it is a master planned community if the declarant has reserved the development right to create at least five hundred units that may be used for residential purposes, and at the time of the reservation such declarant owns or controls more than five hundred acres on which the units may be built.

(b) If the requirements of subsection (a) of this section are satisfied, the declaration for the master planned community need not state a maximum number of units and need not contain any of the information required by subdivisions (3) to (14), inclusive, of subsection (a) of section 47-224 until the declaration is amended under subsection (c) of this section.

(c) When each unit in a master planned community is conveyed to a purchaser, the declaration must contain

(1) a sufficient legal description of the unit and all portions of the master planned community in which any other units have been conveyed to a purchaser, and

(2) all the information required by subdivisions (3) to (14), inclusive, of subsection (a) of section 47-224 with respect to that real property.

(d) The only real property in a master planned community which is subject to this chapter are units that have been declared or which are being offered for sale and any other real property described pursuant to subsection (c) of this section. Other real property that is or may become part of the master planned community is not subject to the provisions of this chapter but is subject to any other restrictions and limitations that appear of record.

(e) If the public offering statement conspicuously identifies the fact that the community is a master planned community, the disclosure requirements contained in sections 47-262 to 47-281, inclusive, apply only with respect to units that have been declared or are being offered for sale in connection with the public offering statement and to the real property described pursuant to subsection (c) of this section.

(f) Limitations in this chapter on the addition of unspecified real property do not apply to a master planned community.

(g) The common interest community loses its status as a master planned community if the aggregate amount of land which is either subject to the declaration or owned or contractually controlled by the declarant ceases to total at least five hundred acres.

(h) The period of declarant control of the association for a master planned community terminates in accordance with any conditions specified in the declaration or otherwise at the time the declarant, in a recorded instrument and after giving notice in a record to all unit owners, voluntarily surrenders all rights to control the activities of the association.

§ 47-242. Addition of land or units to limited equity cooperative

(a) For the purposes of this section, "limited equity cooperative" means a cooperative whose declaration contains any restrictions on

(1) the amount for which a unit may be sold, or

(2) the amount that may be received by a unit owner on the

(A) sale or condemnation of, or casualty loss to, the unit or to the common interest community,

(B) termination of the common interest community, or

(C) abandonment or other termination of a unit owner's or tenant's right of occupancy of a unit.

(b) The declaration of a limited equity cooperative may provide, notwithstanding the requirements of subdivision (3) of subsection (a) of section 47-224, that the declaration may be amended by vote or agreement of unit owners of units to which at least sixty-seven per cent of the votes in the association are allocated, to add land and units to the cooperative, even though the land and units were not described in the original declaration.

(c) If the declaration of a limited equity cooperative is amended pursuant to subsection (b) of this section to add land or units, the amendment shall comply with sections 47-229 and 47-236; provided

(1) the amendment may reallocate the allocated interests among all the units in any reasonable manner which has been approved by the vote or agreement of unit owners; and

(2) the amendment shall contain a legally sufficient description of the real property added to the cooperative.

PART III
MANAGEMENT OF COMMON INTEREST COMMUNITIES

§ 47-243. Organization of unit owners' association

A unit owners' association shall be organized no later than the date the first unit in the common interest community is conveyed. The membership of the association at all times shall consist exclusively of all unit owners or, following termination of the common interest community, of all former unit owners entitled to distributions of proceeds under section 47-237 or their heirs, successors or assigns. The association shall have an executive board. The association shall be organized as a business or nonstock corporation, trust, partnership or unincorporated association.

§ 47-244. Powers and duties of unit owners' association *(Applies to Pre-1984 Communities)*

(a) Except as provided in subsection (b) of this section, and subject to the provisions of the declaration, the association, even if unincorporated:

(1) Shall adopt and may amend bylaws, and may adopt and amend rules;

(2) Shall adopt and may amend budgets, may adopt and amend special assessments, may collect assessments for common expenses from unit owners and may invest funds of the association;

(3) May hire and discharge managing agents and other employees, agents and independent contractors;

(4) May institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or two or more unit owners on matters affecting the common interest community, subject to section 47-261f;

(5) May make contracts and incur liabilities;

(6) May regulate the use, maintenance, repair, replacement and modification of common elements;

(7) May cause additional improvements to be made as a part of the common elements;

(8) May acquire, hold, encumber and convey in its own name any right, title or interest to real property or personal property, but

(A) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 47-254, and

(B) part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 47-254;

(9) May grant easements, leases, licenses and concessions through or over the common elements;

(10) May impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subdivisions (2) and (4) of section 47-221, and for services provided to unit owners;

(11) May impose charges or interest or both for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, rules and regulations of the association;

(12) May impose reasonable charges for the preparation and recordation of amendments to the declaration, resale certificates required by section 47-270 or statements of unpaid assessments;

(13) May provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;

(14) Subject to subsection (d) of section 47-261e, may assign its right to future income, including the right to receive common expense assessments;

(15) May exercise any other powers conferred by the declaration or bylaws;

(16) May exercise all other powers that may be exercised in this state by legal entities of the same type as the association;

(17) May exercise any other powers necessary and proper for the governance and operation of the association;

(18) May require, by regulation, that disputes between the executive board and unit owners or between two or more unit owners regarding the common interest community must be submitted to nonbinding alternative dispute resolution in the manner described in the regulation as a prerequisite to commencement of a judicial proceeding; and

(19) May suspend any right or privilege of a unit owner who fails to pay an assessment, but may not:

(A) Deny a unit owner or other occupant access to the owner's unit or its limited common elements;

(B) Suspend a unit owner's right to vote or participate in meetings of the association;

(C) Prevent a unit owner from seeking election as a director or officer of the association; or

(D) Withhold services provided to a unit or a unit owner by the association if the effect of withholding the service would be to endanger the health, safety or property of any person.

(b) The declaration may not limit the power of the association, beyond the limit authorized in subdivision (18) of subsection (a) of this section, to:

(1) Deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons; or

(2) Institute litigation or an arbitration, mediation or administrative proceeding against any person, except that the association shall comply with section 47-261f, if applicable, before instituting any proceeding described in subsection (a) of section 47-261f, in connection with construction defects.

(c) The executive board promptly shall provide notice to the unit owners of any legal proceeding in which the association is a party other than proceedings involving enforcement of rules, recovery of unpaid assessments or other sums due the association, or defense of the association's lien on a unit in a foreclosure action commenced by a third party.

(d) If a tenant of a unit owner violates the declaration, bylaws or rules and regulations of the association, in addition to exercising any of its powers against the unit owner, the association may:

(1) Exercise directly against the tenant the powers described in subdivision (11) of subsection (a) of this section;

(2) After giving notice to the tenant and the unit owner and an opportunity to be heard, levy reasonable fines against the tenant or unit owner, or both, for the violation; and

(3) Enforce any other rights against the tenant for the violation which the unit owner as landlord could lawfully have exercised under the lease, including any such right to bring a summary process action under chapter 832.

(e) The rights referred to in subdivision (3) of subsection (d) of this section may only be exercised if the tenant or unit owner fails to cure the violation within ten days after the association notifies the tenant and unit owner of that violation.

(f) Unless a lease otherwise provides, this section does not:

(1) Affect rights that the unit owner has to enforce the lease or that the association has under other law; or

(2) Permit the association to enforce a lease to which it is not a party except to the extent that there is a violation of the declaration, bylaws or rules.

(g) The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commencing an action for a violation of the declaration, bylaws and rules, which may include a determination of whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:

(1) The association's legal position does not justify taking any or further enforcement action;

(2) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with law;

(3) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(4) It is not in the association's best interests to take enforcement action.

(h) The executive board's decision under subsection (g) of this section not to take enforcement action under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, except that the executive board may not be arbitrary or capricious in taking enforcement action.

§ 47-244a. Unincorporated unit owners' association's statutory agent for service

(a) Not later than January 1, 1992, each unit owners' association, as defined in section 47-202, that is not incorporated in this state shall have and maintain a statutory agent for service in this state as provided in this section. A statutory agent for service shall be either

(1) a natural person who is a resident of this state,

(2) a domestic corporation with or without capital stock, or

(3) any corporation not organized under the laws of this state which has procured a certificate of authority to transact business or conduct affairs in this state.

(b) A statutory agent for service of a unit owners' association shall be appointed by filing with the Secretary of the State a written appointment in such form as he prescribes setting forth:

(1) The name of the common interest community and of the association;

(2) the name of the statutory agent for service; and

(3) if the statutory agent is a natural person, the business and residence address thereof; if the statutory agent is a domestic corporation, the address of the principal office thereof; if the statutory agent is a corporation not organized under the laws of this state, the address of the principal office thereof in this state, if any. In each case the address shall include the street and number or other particular designation.

(c) The written appointment shall be signed by the president, vice president or secretary of the appointing association. Each written appointment shall also be signed by the statutory agent for service therein appointed.

(d) If a statutory agent for service dies, dissolves, withdraws from the state or resigns, the unit owners' association shall forthwith appoint another statutory agent for service. If the statutory agent for service changes his or its address within the state from that appearing upon the record in the office of the Secretary of the State, the unit owners' association shall forthwith file with the Secretary of the State notice of the new address. A statutory agent for service may resign by filing with the

Secretary of the State a signed statement in duplicate to that effect. The Secretary of the State shall forthwith file one copy and mail the other copy of such statement to the unit owners' association at its principal office. Upon the expiration of thirty days after such filing, the resignation shall be effective and the authority of such statutory agent for service shall terminate. A unit owners' association may revoke the appointment of a statutory agent for service by making a new appointment as provided in this section and any new appointment so made shall revoke all appointments theretofore made.

(e) The Secretary of the State shall charge and collect a fee of ninety dollars for filing an appointment of a statutory agent, and a fee of eighteen dollars for filing a change of address of statutory agent or change of statutory agent.

§ 47-244b. Service of process on statutory agent

(a) Any process, notice or demand in connection with any action or proceeding required or permitted by law to be served upon a unit owners' association which is subject to the provisions of section 47-244a may be served upon the association's statutory agent for service by any proper officer or other person lawfully empowered to make service.

(b) If it appears from the records of the Secretary of the State that such a unit owners' association has failed to appoint or maintain a statutory agent for service, or if it appears by affidavit attached to the process, notice or demand of the officer or other proper person directed to serve any process, notice or demand upon such an association's statutory agent for service appearing on the records of the Secretary of the State that such agent cannot, with reasonable diligence, be found at the address shown on such records as the agent's address, service of such process, notice or demand on such association may, when timely made, be made by such officer or other proper person by:

(1) Leaving a true and attested copy thereof together with the required fee at the office of the Secretary of the State or depositing the same in the United States mails, by registered or certified mail, postage prepaid, addressed to such office, and

(2) depositing in the United States mails, by registered or certified mail, postage prepaid, a true and attested copy thereof, together with a statement by such officer or person that service is being made pursuant to this section, addressed to such association at its principal office.

(c) The Secretary of the State shall file the copy of each process, notice or demand received by him as provided in subsection (b) of this section and keep a record of the day and hour of such receipt. Service made as provided in this section shall be effective as of such day and hour.

(d) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a unit owners' association in any other manner now or hereafter permitted by law.

§ 47-245. Executive board members and officers. Duties. Period of declarant control: Delivery of property and documents by declarant; current financial statement

(a) Except as provided in the declaration, the bylaws, subsection (b) of this section, or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, officers and members of the executive board appointed by the declarant shall exercise the degree of care and loyalty to the association required of a trustee and officers and members of the executive board not appointed by a declarant shall exercise the degree of care and loyalty to the association required of an officer or director of a corporation organized under chapter 602, and are subject to the conflict of interest rules governing directors and officers under chapter 602. The standards of care and loyalty described in this section apply regardless of the form in which the association is organized.

(b) The executive board may not:

(1) Amend the declaration, except as provided in section 47-236;

(2) Terminate the common interest community;

(3) Elect members of the executive board, except that the executive board may fill vacancies in its membership for the unexpired portion of any term or, if earlier, until the next regularly scheduled election of executive board members; or

(4) Determine the qualifications, powers and duties, or terms of office of executive board members.

(c) The executive board shall adopt budgets as provided in section 47-261e.

(d) Subject to the provisions of subsection (e) of this section, the declaration may provide for a period of declarant control of the association, during which a declarant, or persons designated by the declarant, may appoint and remove the officers and members of the executive board. A declarant may voluntarily surrender the right to appoint and remove officers and members of the executive board before the period ends. In that event, the declarant may require, during the remainder of the period, that specified actions of the association or executive board, as described in a recorded instrument executed by the declarant, be approved by the declarant before they become effective. Regardless of the period provided in the declaration, a period of declarant control terminates no later than the earlier of:

(1) Sixty days after conveyance of sixty per cent of the units that may be created to unit owners other than a declarant, except that in the case of a master planned community, control terminates no later than sixty days after conveyance to unit owners other than the declarant of sixty per cent of the maximum number of units that may be built, if that number is specified, or, if no such number is specified, after conveyance to unit owners other than the declarant of three hundred units;

(2) two years after all declarants have ceased to offer units for sale in the ordinary course of business;

(3) two years after any right to add new units was last exercised; or

(4) the date the declarant, after giving notice in a record to unit owners, records an instrument voluntarily surrendering all rights to control activities of the association.

(e) Not later than sixty days after conveyance of one-third of the units that may be created to unit owners other than a declarant, at least one member and not less than one-third of the members of the executive board shall be elected by unit owners other than the declarant.

(f) *(Applies to Pre-1984 Communities)* Except as otherwise provided in subsection (e) of section 47-239, not later than the termination of any period of declarant control, the unit owners shall elect an executive board of at least three members, at least a majority of whom shall be unit owners. Unless the declaration or bylaws provides for the election of officers by the unit owners, the executive board shall elect the officers. The executive board members and officers shall take office upon election.

(g) A declaration may provide for the appointment of specified positions on the executive board by either a governmental subdivision or agency or a nonstock corporation exempt from taxation under 26 USC 501(c)(3) and 26 USC 4940(d)(2), as from time to time amended, during or after the period of declarant control. A declaration may also provide a method for filling vacancies in those specified positions, other than by election by the unit owners, except that, after the period of declarant control, appointed members

(1) may not comprise more than one-third of the board, and

(2) have no greater authority than any other member of the board.

(h) Within thirty days after unit owners other than the declarant elect a majority of the members of the executive board, the declarant shall deliver to the association all property of the unit owners and of the association held by or controlled by the declarant, including without limitation the following items:

(1) The original or a certified copy of the recorded declaration as amended; the association articles of incorporation, if the association is incorporated; bylaws; minute books and other books and records of the association; and any rules and regulations which may have been promulgated;

(2) an accounting for association funds and financial statements, from the date the association received funds and ending on the date the period of declarant control ends. The financial statements shall be audited by an independent certified public accountant and shall be accompanied by the accountant's letter, expressing either

(A) the opinion that the financial statements present fairly the financial position of the association in conformity with generally accepted accounting principles or

(B) a disclaimer of the accountant's ability to attest to the fairness of the presentation of the financial information in conformity with generally accepted accounting principles, and the reasons therefor.

The expense of the audit shall not be paid for or charged to the association;

(3) association funds or control thereof;

(4) all of declarant's tangible personal property that has been represented by the declarant to be the property of the association or, unless the declarant has disclosed in the public offering statement that all such personal property used in the common interest community will remain the declarant's property, all of the declarant's tangible personal property that is necessary for, and has been used exclusively in, the operation and enjoyment of the common elements, and inventories of these properties;

(5) a copy of any plans and specifications used in the construction of the improvements in the common interest community which were completed within two years before the declaration was recorded;

(6) all insurance policies then in force, in which the unit owners, the association or its directors and officers are named as insured persons;

(7) copies of any certificates of occupancy that may have been issued with respect to any improvements comprising the common interest community;

(8) any other permits issued by governmental bodies applicable to the common interest community and which are currently in force or which were issued within one year prior to the date on which unit owners other than the declarant took control of the association;

(9) written warranties of the contractor, subcontractors, suppliers and manufacturers that are still effective;

(10) a roster of unit owners and mortgagees and their addresses and telephone numbers, if known, as shown on the declarant's records;

(11) employment contracts in which the association is a contracting party; and

(12) any service contract in which the association is a contracting party or in which the association or the unit owners have any obligation to pay a fee to the persons performing the services.

(i) During the period of declarant control, the declarant shall, at least every six months, provide the unit owners with a current financial statement of the association. The statement shall be on a cash basis and need not be audited by an independent accountant. It shall include, without limitation,

(1) all income and expenses for the calendar year to date;

(2) all accounts payable and receivable, including the ages of those accounts and showing all sums due to and from the declarant and affiliates of the declarant;

(3) the amount of any funded replacement reserves; and

(4) the balance of any other funds of the association.

(j) No person shall provide or offer to any executive board member or a person seeking election as an executive board member, and no executive board member or person seeking election as an executive board member shall accept, any item of value based on any understanding that the vote, official action or judgment of such member or person seeking election would be or has been influenced thereby.

(k) No managing agent of an association or person providing association management services to such association shall campaign for any person seeking election as an executive board member.

§ 47-246. Transfer of special declarant rights. Obligations and liabilities

(a) A special declarant right, as defined in subsection (29) of section 47-202, created or reserved under this chapter may be transferred only by an instrument evidencing the transfer recorded in every town in which any portion of the common interest community is located.

(b) On transfer of any special declarant right, the liability of a transferor declarant is as follows:

(1) A transferor is not relieved of any obligation or liability arising before the transfer and remains liable for warranty obligations imposed on him by this chapter. Lack of privity does not deprive any unit owner of standing to maintain an action to enforce any obligation of the transferor.

(2) If a successor to any special declarant right is an affiliate of a declarant, as defined in subsection (1) of section 47-202, the transferor is jointly and severally liable with the successor for any obligations or liabilities of the successor relating to the common interest community.

(3) If a transferor retains any special declarant rights, but transfers other special declarant rights to a successor who is not an affiliate of the declarant, the transferor is liable for any obligations or liabilities imposed on a declarant by this chapter or by the declaration relating to the retained special declarant rights and arising after the transfer.

(4) A transferor has no liability for any act or omission or any breach of a contractual or warranty obligation arising from the exercise of a specialdeclarant right by a successor declarant who is not an affiliate of the transferor.

(c) (1) Unless otherwise provided in a mortgage instrument, deed of trust or other agreement creating a security interest, in case of a sale by a trustee under an agreement creating a security interest, tax sale, judicial sale other than a foreclosure sale, or sale under bankruptcy or receivership proceedings, of any units owned by a declarant or real property in a common interest community subject to development rights, a person acquiring title to all the property being sold, but only on his request, succeeds to all special declarant rights related to that property held by that declarant, or only to any rights reserved in the declaration pursuant to section 47-234 and held by that declarant to maintain models, sales offices, management offices and signs. The judgment or instrument conveying title shall provide for transfer of only the special declarant rights requested.

(2) Unless otherwise provided in a mortgage instrument, a foreclosure of a mortgage on property in a common interest community subject to development rights operates to vest absolute title to the development rights

related to the property being foreclosed and held by the declarant whose interest is being foreclosed in the foreclosing mortgagee, or in a redeeming defendant, or in a purchaser at a foreclosure auction unless the foreclosing mortgagee, in its complaint for foreclosure, indicates that those development rights are not part of the mortgaged property for which the mortgagee is seeking a foreclosure.

(d) On foreclosure of a security interest, sale by a trustee under an agreement creating a security interest, tax sale, judicial sale, or sale under bankruptcy or receivership proceedings, of all interests in a common interest community owned by a declarant:

(1) The declarant ceases to have any special declarant rights; and

(2) The period of declarant control, as provided in subsection (d) of section 47-245, terminates unless the judgment or instrument conveying title provides for transfer of all special declarant rights held by that declarant to a successor declarant.

(e) The liabilities and obligations of a person who succeeds to special declarant rights are as follows:

(1) A successor to any special declarant right who is an affiliate of a declarant is subject to all obligations and liabilities imposed on the transferor by this chapter or by the declaration.

(2) A successor to any special declarant right, other than a successor described in subdivisions (3) or (4) of this subsection or a successor who is an affiliate of a declarant, is subject to the obligations and liabilities imposed by this chapter or the declaration:

(A) On a declarant which relate to the successor's exercise or nonexercise of special declarant rights; or

(B) on his transferor, other than:

(i) Misrepresentations by any previous declarant;

(ii) warranty obligations on improvements made and sold by any previous declarant, or made before the common interest community was created;

(iii) breach of any fiduciary obligation by any previous declarant or his appointees to the executive board; or

(iv) any liability or obligation imposed on the transferor as a result of the transferor's acts or omissions after the transfer.

(3) A successor to only a right reserved in the declaration to maintain models, sales offices, and signs, as provided in section 47-234, may not exercise any other special declarant right, and is not subject to any liability or obligation as a declarant, except the obligation to provide a public offering statement and any liability arising as a result thereof.

(4) A successor to all special declarant rights held by a transferor who succeeded to those rights pursuant to a deed or other instrument of conveyance in lieu of foreclosure or a judgment or instrument conveying title under subsection (c), may declare in a recorded instrument the intention to hold those rights solely for transfer to another person. Thereafter, until transferring all special declarant rights to any person acquiring title to any unit or real property subject to development rights owned by the successor, or until recording an instrument permitting exercise of all those rights, that successor may not exercise any of those rights other than any right held by his transferor to control the executive board in accordance with subsection (d) of section 47-245 for the duration of any period of declarant control, and any attempted exercise of those rights is void. As long as a successor declarant may not exercise special declarant rights under this subsection, he is not subject to any liability or obligation as a declarant other than liability for his acts and omissions under subsection (d) of section 47-245.

(f) Nothing in this section subjects any successor to a special declarant right to any claims against or other obligations of a transferor declarant, other than claims and obligations arising under this chapter or the declaration.

§ 47-247. Termination of contracts and leases

(a) Except in the case of nonresidential common interest communities as provided in section 47-215, if entered into before the executive board elected by the unit owners pursuant to subsection (f) of section 47-245 takes office, the association may terminate without penalty upon not less than ninety days' notice to the other party any of the following:

(1) Any management, maintenance, operations or employment contract or lease of recreational or parking areas or facilities; or

(2) any other contract or lease between the association and a declarant or an affiliate of a declarant; or

(3) any contract or lease that is not bona fide or was unconscionable or commercially unreasonable to the unit owners at the time entered into under the circumstances then prevailing.

(b) This section does not apply to:

(1) Any lease the termination of which would terminate the common interest community or reduce its size, unless the real property subject to that lease was included in the common interest community for the purpose of avoiding the right of the association to terminate a lease under this section, or

(2) a proprietary lease.

§ 47-248. Bylaws

(a) The bylaws of the association shall:

(1) Provide the number of members of the executive board and the titles of the officers of the association;

(2) unless otherwise specified in the declaration, provide for election by either the executive board or the unit owners of a president, treasurer, secretary and any other officers of the association the bylaws specify;

(3) specify the qualifications, powers and duties, terms of office and manner of electing and removing executive board members and officers and filling vacancies;

(4) specify the powers the executive board or officers may delegate to other persons or to a managing agent;

(5) specify the officers who may prepare, execute, certify and record amendments to the declaration on behalf of the association;

(6) specify a method for amending the bylaws;

(7) contain any provision necessary to satisfy requirements in this chapter or the declaration concerning meetings, voting, quorums and other activities of the association; and

(8) provide for any matter required by the law of this state other than this chapter, which is not inconsistent with this chapter, to appear in the bylaws of organizations of the same type as the association.

(b) Subject to the declaration and this chapter, the bylaws may provide for any other necessary or appropriate matters including matters that could be adopted as rules.

§ 47-249. Upkeep of common interest community. Liability for expenses

(a) Except to the extent provided by the declaration, subsection (b) of this section or subsection (h) of section 47-255, the association is responsible for maintenance, repair and replacement of the common elements, and each unit owner is responsible for maintenance, repair and replacement of his unit. Each unit owner shall afford to the association and the other unit owners, and to their agents or employees, access through his unit reasonably necessary for those purposes. If damage is inflicted on the common elements or on any unit through which access is taken, the unit owner responsible for the damage, or the association if it is responsible, is liable for the prompt repair thereof.

(b) In addition to the liability that a declarant as a unit owner has under this chapter, the declarant alone is liable for all expenses in connection with real property subject to development rights. No other unit owner and no other portion of the common interest community is subject to a claim for payment of those expenses. Unless the declaration provides otherwise, any income or proceeds from real property subject to development rights inures to the declarant.

(c) In a planned community, if all development rights have expired with respect to any real property, the declarant remains liable for all expenses of that real property unless, on expiration, the declaration provides that the real property becomes common elements or units.

§ 47-250. Meetings. Rules *(Applies to Pre-1984 Communities)*

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

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

(2) An association shall hold a special meeting of unit owners if its president, a majority of the executive board, or unit owners having at least twenty per cent, or any lower percentage specified in the bylaws, of the votes in the association request that the secretary call the meeting. If the association does not notify unit owners of a special meeting within fifteen days after the requisite number or percentage of unit owners request the secretary to do so, the requesting members may directly notify the unit owners of the meeting. Only matters described in the meeting notice required by subdivision (3) of this subsection may be considered at a special meeting;

(3) An association shall notify unit owners of the time, date and place of each annual and special meeting of unit owners not less than ten days or more than sixty days before the meeting date. Notice may be by any means described in section 47-261c, as amended by this act. The notice of any meeting shall state the time, date and place of the meeting and the items on the agenda, including

(A) a statement of the general nature of any proposed amendment to the declaration or bylaws,

(B) any budget changes, and

(C) any proposal to remove an officer or member of the executive board;

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

(5) Unless prohibited by the declaration or bylaws, meetings of unit owners may be conducted by telephonic, video or other conferencing process if the alternative process is consistent with subdivision (7) of subsection (b) of this section.

(b) The following requirements apply to meetings of the executive board and committees of the association authorized to act for the association:

(1) Meetings shall be open to the unit owners and to a representative designated by any unit owner except during executive sessions. The executive board and those committees may hold an executive session only during a regular or special meeting of the board or a committee. No final vote or action may be taken during an executive session. An executive session may be held only to:

(A) Consult with the association's attorney concerning legal matters;

(B) discuss existing or potential litigation or mediation, arbitration or administrative proceedings;

(C) discuss labor or personnel matters;

(D) discuss contracts, leases and other commercial transactions to purchase or provide goods or services currently being negotiated, including the review of bids or proposals, if premature general knowledge of those matters would place the association at a disadvantage; or

(E) prevent public knowledge of the matter to be discussed if the executive board or committee determines that public knowledge would violate the privacy of any person.

(2) For purposes of this section, a gathering of board members at which the board members do not conduct association business is not a meeting of the executive board. The executive board and its members may not use incidental or social gatherings of board members or any other method to evade the open meeting requirements of this section.

(3) Notwithstanding any actions taken by not less than two-thirds consent of the entire executive board pursuant to subdivision (8) or (9) of this section, during and after the period of declarant control, the executive board shall meet at least two times a year at the common interest community or at a place convenient to the community. Those meetings, and after termination of the period of declarant control, all executive board meetings, shall be at the common interest community or at a place convenient to the community unless the bylaws are amended to vary the location of those meetings.

(4) At each executive board meeting, the executive board shall provide a reasonable opportunity for unit owners to comment regarding any matter affecting the common interest community and the association.

(5) Unless the meeting is included in a schedule given to the unit owners or the meeting is called to deal with an emergency, the secretary or other officer specified in the bylaws shall give notice of each executive board meeting to each board member and to the unit owners. The notice shall be given at least five days before the meeting and shall state the time, date, place and agenda of the meeting, except that notice of a meeting called to adopt, amend or repeal a rule shall be given in accordance with subsection (a) of section 47-261b. If notice of the meeting is included in a schedule given to the unit owners, the secretary or other officer specified in the bylaws shall make available an agenda for such meeting to each board member and to the unit owners not later than forty-eight hours prior to the meeting.

(6) If any materials are distributed to the executive board before the meeting, the executive board at the same time shall make copies of those materials reasonably available to unit owners, except that the board need not make available copies of unapproved minutes or materials that are to be considered in executive session.

(7) Unless prohibited by the declaration or bylaws, the executive board may meet by telephonic, video or other conferencing process if

(A) the meeting notice states the conferencing process to be used and provides information explaining how unit owners may participate in the conference directly or by meeting at a central location or conference connection; and

(B) the process provides all unit owners the opportunity to hear or perceive the discussion and offer comments as provided in subdivision (4) of this subsection.

(8) The minutes of all executive board meetings shall contain a record of how each board member cast his or her vote on any final action proposed to be taken by the executive board, unless such action was approved either by unanimous consent of the board members or without objection by any board member.

(9) Instead of meeting, the executive board may act by not less than two-thirds consent of all executive board members as documented in a record authenticated by its members, noting the consent or nonconsent of each executive board member. The secretary promptly shall give notice to all unit owners of any action taken by not less than two-thirds consent of all executive board members.

(10) Even if an action by the executive board is not in compliance with this section, it is valid unless set aside by a court. A challenge to the validity of an action of the executive board for failure to comply with this section may not be brought more than sixty days after the minutes of the executive board of the meeting at which the action was taken are approved or the record of that action is distributed to unit owners, whichever is later.

(c) Meetings of the association shall be conducted in accordance with the most recent edition of Roberts' Rules of Order Newly Revised unless

(1) the declaration, bylaws or other law otherwise provides, or

(2) two-thirds of the votes allocated to owners present at the meeting are cast to suspend those rules.

§ 47-251. Quorum *(Applies to Pre-1984 Communities)*

(a) Unless the bylaws otherwise provide, a quorum is present throughout any meeting of the unit owners if persons entitled to cast twenty per cent of the votes in the association are present in person or by proxy at the beginning of the meeting.

(b) Unless the bylaws specify a larger number, a quorum of the executive board is present for purposes of determining the validity of any action taken at a meeting of the executive board only if individuals entitled to cast a majority of the votes on that board are present at the time a vote regarding that action is taken. If a quorum is present when a vote is taken, the affirmative vote of a majority of the board members present is the act of the executive board unless a greater vote is required by the declaration or bylaws.

§ 47-252. Voting. Proxies. Ballots *(Applies to Pre-1984 Communities)*

(a) Unless prohibited or limited by the declaration or bylaws, unit owners may vote

(1) at a meeting in person or electronically,

(2) by a proxy pursuant to subsection (c) of this section or,

(3) when a vote is conducted without a meeting, by electronic or paper ballot pursuant to subsection (d) of this section.

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

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

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

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

(4) If the declaration, bylaws or certificate of incorporation of the association provide for the election of officers by the unit owners, then unless a greater number or fraction of the votes in the association is required by the declaration, bylaws or certificate of incorporation of the association, officers shall be elected by a plurality of the votes cast by the unit owners. If the declaration, bylaws or certificate of incorporation of the association requires any or all of the officers to be elected by unit owners of a specified group or class of units, then such officers shall be elected by a plurality of the votes cast by the unit owners of units of such group or class of units. The provisions of this subdivision shall not apply to directors who may be appointed by the declarant or under subsection (g) of section 47-245.

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

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

(2) The association may provide a proxy form to any unit owners who seeks to vote pursuant to a directed or undirected proxy. If the association provides a proxy form, the proxy form,

(A) shall include a blank space reserved for the insertion of the name of the proxy holder, and

(B) may include the name of a person designated by the association to be the default proxy holder, who shall be authorized to exercise the proxy in the event the unit owner fails to otherwise specify the name of the proxy holder subject to the limitations set forth in this subsection.

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

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

(5) A proxy is void if it is not dated or purports to be revocable without notice;

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

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

(d) Unless prohibited or limited by the declaration or bylaws, an association may conduct a vote without a meeting. In that event, the following requirements apply:

(1) The association shall notify the unit owners that the vote will be taken by ballot;

(2) The association shall deliver a paper or electronic ballot to every unit owner entitled to vote on the matter;

(3) The ballot must set forth each proposed action or office to be filled and provide an opportunity to vote for or against the action or the candidate for office;

(4) When the association delivers the ballots, it shall also:

(A) Indicate the number of responses needed to meet the quorum requirements;

(B) state the percentage of votes necessary to approve each matter other than election of directors;

(C) specify the time and date by which a ballot must be delivered to the association to be counted, which time and date may not be fewer than three days after the date the association delivers the ballot; and

(D) describe the time, date and manner by which unit owners wishing to deliver information to all unit owners regarding the subject of the vote may do so;

(5) Except as otherwise provided in the declaration or bylaws, a ballot is not revoked after delivery to the association by death or disability or attempted revocation by the person that cast that vote; and

(6) Approval by ballot pursuant to this subsection is valid only if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action.

(e) If the declaration requires that votes on specified matters affecting the common interest community be cast by lessees rather than unit owners of leased units:

(1) This section applies to lessees as if they were unit owners;

(2) unit owners that have leased their units to other persons may not cast votes on those specified matters; and

(3) lessees are entitled to notice of meetings, access to records and other rights respecting those matters as if they were unit owners.

(f) Unit owners shall also be given notice of all meetings at which lessees are entitled to vote.

(g) Votes allocated to a unit owned by the association shall be cast in any vote of the unit owners in the same proportion as the votes cast on the matter by unit owners other than the association.

(h) For the purposes of this chapter, "fraction or percentage", with respect to the unit owners or the votes in the association, means the stated fraction or percentage of unit owners of units to which at least the stated percentage or fraction of all the votes in the association are allocated, unless the provisions of this chapter provide that the "fraction or percentage" refers to a different group of unit owners or votes.

§ 47-253. Liability *(Applies to Pre-1984 Communities)*

(a) A unit owner is not liable, solely by reason of being a unit owner, for injury or damage arising out of the condition or use of the common elements. Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the common interest community which that declarant has the responsibility to maintain.

(b) An action alleging a wrong done by the association, including an action arising out of the condition or use of the common elements, may be maintained against the association and not against any unit owner. If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner for

(1) all tort losses not covered by insurance suffered by the association or that unit owner, and

(2) all costs that the association would not have incurred but for a breach of contract or other wrongful act or omission.

(c) The declarant is liable to the association for all funds of the association collected during the period of declarant control which were not properly expended.

(d) Whenever the declarant is liable to the association under this section, the declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the association. Any statute of limitation affecting the association's right of action against a declarant under this chapter is tolled until the period of declarant control terminates. A unit owner is not precluded from maintaining an action contemplated by this section because he is a unit owner or a member or

officer of the association. Liens resulting from judgments against the association are governed by section 47-259.

(e) No member of the executive board or officer of the association shall be subject to criminal liability for an alleged violation of the Fire Safety Code, the State Building Code or a municipal health, housing or safety code when, pursuant to subsection (b) of section 47-261e, the executive board of an association proposes a special assessment to cover the cost of the repairs necessary to ensure compliance with the terms of such codes and the special assessment is rejected by a vote of the unit owners.

§ 47-254. Conveyance or encumbrance of common elements

(a) In a condominium or planned community, portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least eighty per cent of the votes in the association, including eighty per cent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but all owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to nonresidential uses. In a condominium, the common elements may be conveyed or subjected to a security interest as provided in this subsection free of the lien on the undivided interests in the common elements held by all mortgagees of the units, if eighty per cent of the mortgagees consent in a record to the sale or encumbrance. Proceeds of the sale are an asset of the association, but the proceeds of the sale of, or attributed to, limited common elements must be distributed equitably among the owners of units to which the limited common elements were allocated.

(b) Part of a cooperative may be conveyed and all or part of a cooperative may be subjected to a security interest by the association if persons entitled to cast at least eighty per cent of the votes in the association, including eighty per cent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action; but, if fewer than all of the units or limited common elements are to be conveyed or subjected to a security interest, then all unit owners of those units, or the units to which those limited common elements are allocated, must agree in order to convey those units or limited common elements or subject them to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted exclusively to

nonresidential uses. Proceeds of the sale are an asset of the association. Any purported conveyance or other voluntary transfer of an entire cooperative, unless made pursuant to section 47-237 is void.

(c) An agreement to convey common elements in a condominium or planned community, or to subject them to a security interest, or in a cooperative, an agreement to convey any part of a cooperative or subject it to a security interest, shall be evidenced by the execution of an agreement or ratifications thereof, in the same manner as a deed, by the requisite number of unit owners. The agreement shall specify a date after which the agreement will be void unless recorded before that date. The agreement and all ratifications thereof shall be recorded in every town in which a portion of the common interest community is situated, and is effective only on recordation.

(d) The association, on behalf of the unit owners, may contract to convey an interest in a common interest community pursuant to subsection (a) or (b) of this section, but the contract is not enforceable against the association until approved pursuant to subsections (a), (b) and (c) of this section. Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, including the power to execute deeds or other instruments.

(e) Unless made pursuant to this section, any purported conveyance, encumbrance, judicial sale or other voluntary transfer of common elements or of any other part of a cooperative is void.

(f) A conveyance or encumbrance of common elements or of a cooperative pursuant to this section does not deprive any unit of its rights of access and support.

(g) Unless the declaration otherwise provides and unless, in a condominium, eighty per cent of the mortgagees have consented in a record to the sale as provided in subsection (a) of this section, a conveyance or encumbrance of common elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

(h) In a cooperative, the association may acquire, hold, encumber or convey a proprietary lease without complying with this section.

§ 47-255. Insurance *(Applies to Pre-1984 Communities)*

(a) Commencing not later than the time of the first conveyance of a unit to a person

other than a declarant, the association shall maintain, to the extent reasonably available and subject to reasonable deductibles:

(1) Property insurance on the common elements and, in a planned community, also on property that must become common elements, insuring against those risks of direct physical loss commonly insured against, which insurance, after application of any deductibles shall be not less than eighty per cent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies;

(2) flood insurance in the event the condominium is located in a flood hazard area, as defined and determined by the National Flood Insurance Act, as amended, USC 42 Section 4101, P.L. 93-234, and the unit owners by vote direct;

(3) commercial general liability insurance, including medical payments insurance, in an amount determined by the executive board but not less than any amount specified in the declaration, covering all occurrences commonly insured against for bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the common elements and, in cooperatives, also of all units; and

(4) fidelity insurance.

(b) (1) In the case of a building that contains units divided by horizontal boundaries described in the declaration, or by vertical boundaries that comprise or are located within common walls between units, the insurance maintained under subdivision (1) of subsection (a) of this section, to the extent reasonably available, shall include the units, and all improvements and betterments installed by unit owners, unless the declaration limits the association's authority to insure all improvements and betterments or the executive board decides, after giving notice and an opportunity for unit owners to comment, not to insure such improvements and betterments. In the case of common interest communities containing more than twelve units, unless the association insures all improvements and betterments, the association shall:

(A) Prepare and maintain a schedule of the standard fixtures, improvements and betterments in the units, including any standard wall, floor and ceiling coverings covered by the association's insurance policy;

(B) Provide such schedule at least annually to the unit owners in order to enable unit owners to coordinate their homeowners insurance coverage with the coverage afforded by the association's insurance policy; and

(C) Include such schedule in any resale certificate prepared pursuant to section 47-270.

(2) The provisions of this subsection shall not apply to a building in a common interest community that has not more than two units divided by a single horizontal or vertical boundary unless such common interest community voluntarily chooses to comply with this subsection.

(c) If the insurance described in subsections (a) and (b) of this section is not reasonably available, the association promptly shall cause notice of that fact to be given to all unit owners pursuant to section 47-261c. The declaration may require the association to carry any other insurance, and the association may carry any other insurance it considers appropriate to protect the association or the unit owners.

(d) Insurance policies carried pursuant to subsections (a) and (b) of this section shall provide that:

(1) Each unit owner is an insured person under the policy with respect to liability arising out of his interest in the common elements or membership in the association;

(2) the insurer waives its right to subrogation under the policy against any unit owner or member of his household;

(3) no act or omission by any unit owner, unless acting within the scope of his authority on behalf of the association, will void the policy or be a condition to recovery under the policy; and

(4) if, at the time of a loss under the policy, there is other insurance in the name of a unit owner covering the same risk covered by the policy, the association's policy provides primary insurance.

(e) Any loss covered by the property policy under subdivision (1) of subsection (a) and subsection (b) of this section shall be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any holder of a security interest. The insurance trustee or the association shall hold any insurance proceeds in trust for the association, unit owners and lien holders as their interests may appear. Subject to the provisions of subsection (h) of this section, the proceeds shall be disbursed first for the repair or replacement of the damaged property, and the association, unit owners and lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or replaced, or the common interest community is terminated.

(f) An insurance policy issued to the association does not prevent a unit owner from obtaining insurance for his own benefit.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, on request made in a record, to any unit owner or holder of a security interest. The insurer issuing the policy may not cancel or refuse to renew it until sixty days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each unit owner and each holder of a security interest to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

(h) (1) Any portion of the common interest community for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless

(A) the common interest community is terminated, in which case section 47-237, as amended by this act, applies,

(B) repair or replacement would be illegal under any state or local statute or ordinance governing health or safety, or

(C) eighty per cent of the unit owners, including every owner of a unit or assigned limited common element that will not be rebuilt, vote not to rebuild.

The cost of repair or replacement in excess of insurance proceeds and reserves, regardless of whether such excess is the result of the application of a deductible under insurance coverage, is a common expense.

(2) If the entire common interest community is not repaired or replaced,

(A) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the common interest community, and

(B) except to the extent that other persons will be distributees,

(i) the insurance proceeds attributable to units and limited common elements that are not rebuilt shall be distributed to the owners of those units and the owners of the units to which those limited common elements were allocated, or to lien holders, as their interests may appear, and

(ii) the remainder of the proceeds shall be distributed to all of the unit owners or lien holders, as their interests may appear, in proportion to the common expense liabilities of all of the units.

(3) If the unit owners vote not to rebuild any unit, that unit's allocated interests are automatically reallocated on the vote as if the unit had been acquired by eminent domain under subsection (a) of section 47-206, and the association promptly shall prepare, execute and record an amendment to the declaration reflecting the reallocations.

(i) The provisions of this section may be varied or waived in the case of a common interest community all of whose units are restricted to nonresidential use.

§ 47-256. Surplus funds

Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses and any prepayment of reserves shall be paid annually to the unit owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.

§ 47-257. Assessments for common expenses. Assessments due to wilful misconduct, failure to comply with standards or gross negligence *(Applies to Pre-1984 Communities)*

(a) Until the association makes a common expense assessment, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments shall be made at least annually, based on a budget adopted at least annually by the association.

(b) Except for assessments under subsections (c), (d) and (e) of this section, or as otherwise provided in this chapter, all common expenses shall be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections (a) and (b) of section 47-226. The association may charge interest on any past due assessment or portion thereof at the rate established by the association, not exceeding eighteen per cent per year.

(c) To the extent required by the declaration:

(1) Any common expense associated with the maintenance, repair or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units or their owners may be assessed exclusively against the units benefited; and

(3) the costs of insurance shall be assessed in proportion to risk and the costs of utilities shall be assessed in proportion to usage.

(d) Assessments to pay a judgment against the association may be made only against the units in the common interest community at the time the judgment was rendered, in proportion to their common expense liabilities.

(e) If any common expense is caused by the wilful misconduct, failure to comply with a written maintenance standard promulgated by the association or gross negligence of any unit owner or tenant or a guest or invitee of a unit owner or tenant, the association may, after notice and hearing, assess the portion of that common expense in excess of any insurance proceeds received by the association under its insurance policy, whether that portion results from the application of a deductible or otherwise, exclusively against that owner's unit.

(f) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(g) No unit owner may exempt himself from liability for payment of the common expenses by waiver of the use or enjoyment of any of the common elements or by abandonment of the unit against which the assessments are made.

§ 47-258. Lien for assessments and other sums due association. Enforcement *(Applies to Pre-1984 Communities)*

(a) The association has a statutory lien on a unit for any assessment attributable to that unit or fines imposed against its unit owner. Unless the declaration otherwise provides, reasonable attorneys' fees and costs, other fees, charges, late charges, fines and interest charged pursuant to subdivisions (10), (11) and (12) of subsection (a) of section 47-244 and any other sums due to the association under the declaration, this chapter, or as a result of an administrative, arbitration, mediation or judicial decision, are enforceable in the same manner as unpaid assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) Notwithstanding any provision in the declaration or bylaws to the contrary, a lien under this section is prior to all other liens and encumbrances on a unit except

(1) liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to,

(2) a first or second security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent, or, in a cooperative, a first or second security interest encumbering only the unit

owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent, and

(3) liens for real property taxes and other governmental assessments or charges against the unit or cooperative.

In all actions brought to foreclose a lien under this section or a security interest described in subdivision (2) of this subsection, the lien is also prior to all security interests described in subdivision (2) of this subsection to the extent of

(A) an amount equal to the common expense assessments based on the periodic budget adopted by the association pursuant to subsection (a) of section 47-257 which would have become due in the absence of acceleration during the nine months immediately preceding institution of an action to enforce either the association's lien or a security interest described in subdivision (2) of this subsection, excluding any late fees, interest or fines which may be assessed by the association during the nine-month period, and

(B) the association's costs and reasonable attorney's fees in enforcing its lien.

A lien for any assessment or fine specified in subsection (a) of this section shall have the priority provided for in this subsection in an amount not to exceed the amount specified in subparagraph (A) of this subsection. This subsection does not affect the priority of mechanics' or materialmen's liens or the priority of liens for other assessments made by the association.

(c) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

(d) Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

(e) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the full amount of the assessments becomes due; provided, that if an owner of a unit subject to a lien under this section files a petition for relief under the United States Bankruptcy Code, the

period of time for instituting proceedings to enforce the association's lien shall be tolled until thirty days after the automatic stay of proceedings under Section 362 of the Bankruptcy Code is lifted.

(f) This section does not prohibit actions against unit owners to recover sums for which subsection (a) of this section creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

(g) A judgment or decree in any action brought under this section shall include costs and reasonable attorney's fees for the prevailing party.

(h) The association on request made in a record shall furnish to a unit owner a statement in recordable form setting forth the amount of unpaid assessments against the unit. The statement shall be furnished within ten business days after receipt of the request and is binding on the association, the executive board and every unit owner.

(i) In a cooperative, on nonpayment of an assessment on a unit, the unit owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a tenant, and the lien may be foreclosed as provided by this section.

(j) The association's lien may be foreclosed in like manner as a mortgage on real property.

(k) In any action by the association to collect assessments or to foreclose a lien for unpaid assessments, the court may appoint a receiver of the unit owner pursuant to section 52-504 to collect all sums alleged to be due from that unit owner prior to or during the pendency of the action. The court may order the receiver to pay any sums held by the receiver to the association during the pendency of the action to the extent of the association's common expense assessments based on a periodic budget adopted by the association pursuant to subsection (a) of section 47-257.

(l) If a holder of a first or second security interest on a unit forecloses that security interest, the purchaser at the foreclosure sale is not liable for any unpaid assessments against that unit which became due before the sale, other than the assessments which are prior to that security interest under subsection (b) of this section. Any unpaid assessments not satisfied from the proceeds of sale become common expenses collectible from all unit owners, including the purchaser.

(m) (1) An association may not commence an action to foreclose a lien on a unit under this section unless:

(A) The unit owner, at the time the action is commenced, owes a sum equal to at least two months of common expense assessments based on the periodic budget last adopted by the association pursuant to subsection (a) of section 47-257;

(B) the association has made a demand for payment in a record and has simultaneously provided a copy of such record to the holder of a security interest described in subdivision (2) of subsection (b) of this section; and

(C) the executive board has either voted to commence a foreclosure action specifically against that unit or has adopted a standard policy that provides for foreclosure against that unit.

(2) Not less than sixty days prior to commencing an action to foreclose a lien on a unit under this section, the association shall provide a written notice by first class mail to the holders of all security interests described in subdivision (2) of subsection (b) of this section, which shall set forth the following:

(A) The amount of unpaid common expense assessments owed to the association as of the date of the notice;

(B) the amount of any attorney's fees and costs incurred by the association in the enforcement of its lien as of the date of the notice;

(C) a statement of the association's intention to foreclose its lien if the amounts set forth in subparagraphs (A) and (B) of this subdivision are not paid to the association not later than sixty days after the date on which the notice is provided;

(D) the association's contact information, including, but not limited to,

(i) the name of the individual acting on behalf of the association with respect to the matter, and

(ii) the association's mailing address, telephone number and electronic mail address, if any; and

(E) instructions concerning the acceptable means of making payment on the amounts owing to the association as set forth in subparagraphs (A) and (B) of this subdivision.

Any notice required to be given by the association under this subsection shall be effective when sent.

(3) When providing the written notice required by subdivision (2) of this subsection, the association may rely on the last-recorded security interest of record in identifying the name and mailing address of the holder of that interest, unless the holder of the security interest is the plaintiff in an action pending in the Superior Court to enforce that security interest, in which case the association shall provide the written notice to the attorney appearing on behalf of the holder of the security interest in such action.

(4) The failure of the association to provide the written notice required by subdivisions (2) and (3) of this subsection prior to commencing an action to foreclose its lien shall not affect the priority of its lien for an amount equal to nine months common expense assessments, but the priority amount in such action shall not include any costs or attorney's fees.

(n) Every aspect of a foreclosure, sale or other disposition under this section, including the method, advertising, time, date, place and terms, shall be commercially reasonable.

§ 47-259. Other liens

(a) A judgment for money against the association may be enforced against the assets of the association in the manner otherwise provided by law, but may not be recorded in the land records in order to create the lien described in subdivision (1) of subsection (b) of this section for at least thirty days after that judgment is rendered.

(b) In a condominium or planned community:

(1) Except as provided in subdivision (2) of this subsection, a judgment for money against the association, if recorded, is not a lien on the common

elements, but is a lien in favor of the judgment lien holder against all of the units in the common interest community at the time the judgment was rendered. No other property of a unit owner is subject to the claims of creditors of the association.

(2) If the association has granted a security interest in the common elements to a creditor of the association pursuant to section 47-254, the holder of that security interest shall exercise its right against the common elements before its judgment lien on any unit may be enforced.

(3) Whether perfected before or after the creation of the common interest community, if a lien, other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the common interest community, becomes effective against two or more units, the unit owner of an affected unit may pay to the lien holder the amount of the lien attributable to his unit or post a bond in that amount, and the lien holder, on receipt of payment or on posting of the bond, promptly shall deliver a release of the lien covering that unit. The amount of the payment shall be proportionate to the ratio which that unit owner's common expense liability bears to the common expense liabilities of all unit owners whose units are subject to the lien. After payment, the association may not assess or have a lien against that unit owner's unit for any portion of the common expenses incurred in connection with that lien.

(4) A judgment against the association shall be indexed in the name of the common interest community and the association and, when so indexed, is notice of the lien against the units.

(c) The association shall transmit a notice of any judgment for money rendered against the association to each unit owner promptly after the association receives notice of that judgment. The notice shall include the names of the parties, the date and amount of the judgment and a statement that the judgment creditor is entitled to a judgment lien, in accordance with this section, affecting the unit owner's interest in his unit.

(d) In a cooperative:

(1) If the association receives notice of an impending foreclosure on all or any portion of the association's real property, the association shall promptly

transmit a copy of that notice to each unit owner of a unit located within the real property to be foreclosed. Failure of the association to transmit the notice does not affect the validity of the foreclosure, and

(2) whether or not a unit owner's unit is subject to the claims of the association's creditors, no other property of a unit owner is subject to those claims.

§ 47-260. Association records. Copies. Fees *(Applies to Pre-1984 Communities)*

(a) An association shall retain the following:

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

(2) Minutes of all meetings of its unit owners and executive board other than executive sessions, a record of all actions taken by the unit owners or executive board without a meeting, and a record of all actions taken by a committee in place of the executive board on behalf of the association;

(3) The names of unit owners in a form that permits preparation of a list of the names of all unit owners and the addresses at which the association communicates with the unit owners, in alphabetical order showing the number of votes each unit owner is entitled to cast;

(4) The association's original or restated organizational documents, if required by law other than this chapter, bylaws and all amendments to the bylaws, and all rules currently in effect;

(5) All financial statements and tax returns of the association for the past three years;

(6) A list of the names and addresses of the association's current executive board members and officers;

(7) The association's most recent annual report delivered to the Secretary of the State, if any;

(8) Financial and other records sufficiently detailed to enable the association to comply with section 47-270, as amended by this act;

(9) Copies of current contracts to which the association is a party;

(10) Records of executive board or committee actions to approve or deny any requests for design or architectural approval from unit owners; and

(11) Ballots, proxies and other records related to voting by unit owners for one year after the election, action or vote to which they relate.

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

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

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

(c) Records retained by an association shall be withheld from inspection and copying to the extent that they concern:

(1) Personnel, salary and medical records relating to specific individuals, unless waived by the persons to whom such records relate; or

(2) Information the disclosure of which would violate any law other than this chapter.

(d) Records retained by an association may be withheld from inspection and copying to the extent that they concern:

(1) Contracts, leases and other commercial transactions to purchase or provide goods or services, currently being negotiated;

(2) Existing or potential litigation or mediation, arbitration or administrative proceedings;

(3) Existing or potential matters involving federal, state or local administrative or other formal proceedings before a governmental tribunal for enforcement of the declaration, bylaws or rules;

(4) Communications with the association's attorney which are otherwise protected by the attorney-client privilege or the attorney work-product doctrine;

(5) Records of an executive session of the executive board; or

(6) Individual unit files other than those of the requesting owner.

(e) An association may charge a reasonable fee for providing copies of any records under this section and for supervising the unit owner's inspection.

(f) A right to copy records under this section includes the right to receive copies by photocopying or other means, including copies through an electronic transmission if available upon request by the unit owner.

(g) An association is not obligated to compile or synthesize information.

(h) Information provided pursuant to this section may not be used for commercial purposes.

§ 47-261. Association as trustee

With respect to a third person dealing with the association in the association's capacity as a trustee, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers. A third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

§ 47-261a. Basic education program for association members and management

The executive board of each association of a common interest community, or an officer designated by the executive board, shall encourage each member of such association, including the officers and members of the executive board, and any managing agent of such association or person providing association management services to such association, to attend, when available, a basic education program concerning the purpose and operation of common interest communities and associations, and the rights and responsibilities of unit owners, associations and executive board officers and members. The executive board, or any such designated officer, may arrange to have any such program conducted by a private entity at a time and place convenient to a majority of the members of such association. All or part of any fees for such program may be designated as a common expense of the association and paid from association funds in such manner as may be determined by the executive board and approved by the association, consistent with the bylaws of the association and this chapter.

§ 47-261b. Rules *(Applies to Pre-1984 Communities)*

(a) At least ten days before adopting, amending or repealing any rule, the executive board shall give all unit owners notice of:

(1) The executive board's intention to adopt, amend or repeal a rule and shall include with such notice the text of the proposed rule or amendment, or the text of the rule proposed to be repealed; and

(2) the date on which the executive board will act on the proposed rule, amendment or repeal after considering comments from unit owners.

(b) Following adoption, amendment or repeal of a rule, the association shall give all unit owners notice of its action and include with such notice a copy of any new or amended rule.

(c) Subject to the provisions of the declaration, an association may adopt rules to establish and enforce construction and design criteria and aesthetic standards. If an association adopts such rules, the association shall adopt procedures for enforcement of those rules and for approval of construction applications, including a reasonable time within which the association must act after an application is submitted and the consequences of its failure to act.

(d) A rule regulating display of the flag of the United States must be consistent with federal law. In addition, the association may not prohibit display, on a unit or on a

limited common element adjoining a unit, of the flag of this state, or signs regarding candidates for public or association office or ballot questions, but the association may adopt rules governing the time, place, size, number and manner of those displays.

(e) Unit owners may peacefully assemble on the common elements to consider matters related to the common interest community, but the association may adopt rules governing the time, place and manner of those assemblies.

(f) An association may adopt rules that affect the use of or behavior in units that may be used for residential purposes, only to:

(1) Implement a provision of the declaration;

(2) Regulate any behavior in or occupancy of a unit which violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners; or

(3) Restrict the leasing of residential units to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders that regularly make loans secured by first mortgages on units in common interest communities or regularly purchase those mortgages, provided no such restriction shall be enforceable unless notice thereof is recorded on the land records of each town in which any part of the common interest community is located. Such notice shall be indexed by the town clerk in the grantor index of such land records in the name of the association.

(g) An association's internal business operating procedures need not be adopted as rules.

(h) Each rule of the association must be reasonable.

§ 47-261c. Notice to unit owners *(Applies to Pre-1984 Communities)*

(a) An association shall deliver any notice required to be given by the association under this chapter to any mailing or electronic mail address a unit owner designates, except that the association may also deliver notices by:

(1) Hand delivery to each unit owner;

(2) hand delivery, United States mail postage paid, or commercially reasonable delivery service to the mailing address of each unit;

(3) electronic means, if the unit owner has given the association an electronic address; or

(4) any other method reasonably calculated to provide notice to the unit owner.

(b) Notices required to be given by the association under this chapter are effective when sent. The ineffectiveness of a good faith effort to deliver notice by an authorized means does not invalidate action taken at or without a meeting.

§ 47-261d. Removal of officers and directors *(Applies to Pre-1984 Communities)*

(a) Notwithstanding any provision of the declaration or bylaws to the contrary, unit owners present in person or by proxy at any meeting of the unit owners at which a quorum is present, or voting by ballot pursuant to subsection (d) of section 47-252, may remove any member of the executive board or any officer elected by the unit owners, with or without cause, if the number of votes cast in favor of removal exceeds the number of votes cast in opposition to removal, except that:

(1) A member appointed by the declarant may not be removed by a vote of the unit owners during the period of declarant control;

(2) a member appointed under subsection (g) of section 47-245, as amended by this act, may be removed only by the person that appointed that member; and

(3) the unit owners may not consider whether to remove a member of the executive board or an officer elected by the unit owners at a meeting of the unit owners unless that subject was listed in the notice of the meeting or in the notice of the vote by ballot.

(b) At any meeting at which a vote to remove a member of the executive board or an officer is to be taken, the member or officer being considered for removal must have a reasonable opportunity to speak before the vote is taken. If the vote is taken by ballot pursuant to subsection (d) of section 47-252, the member or officer being considered for removal shall be given a reasonable opportunity to deliver information to the unit owners as provided in said subsection.

§ 47-261e. Adoption of budgets. Special assessments. Loan agreements *(Applies to Pre-1984 Communities)*

(a) (1) Except as provided in subdivision (2) of this subsection, the executive board, at least annually, shall adopt a proposed budget for the common interest community for consideration by the unit owners. Not later than thirty days after the adoption of a proposed budget, the executive board shall provide to all unit owners a summary of the proposed budget, including a statement of the amount of any reserves, and a statement of the basis on which such reserves are calculated and funded. Simultaneously, the board shall set a date not less than ten days or more than sixty days after providing the summary for either a meeting of the unit owners or a vote by ballot without a meeting to consider approval or rejection of the proposed budget. If, at that meeting or in the vote by ballot, a majority of all unit owners or any larger number specified in the declaration votes to reject the proposed budget, the proposed budget shall be rejected. If, at that meeting or in the vote by ballot, a majority of all unit owners or any larger number specified in the declaration does not vote to reject the proposed budget, the proposed budget shall be approved. The absence of a quorum at such meeting or participating in the vote by ballot shall not affect rejection or approval of the proposed budget. If a proposed budget is rejected, the budget last approved by the unit owners continues until unit owners approve a subsequent budget. If a proposed budget is not rejected in accordance with the provisions of this subdivision, the proposed budget shall be deemed approved.

(2) The executive board of an association of a common interest community, or of a master association as defined in section 47-239 exercising the powers on behalf of one or more common interest communities or for the benefit of the unit owners of one or more common interest communities, which community or communities were established prior to July 3, 1991, and have more than two thousand four hundred residential units, at least annually, shall adopt a proposed budget for the common interest community for consideration by the unit owners. Not later than thirty days after the adoption of a proposed budget, the executive board shall provide to all unit owners a summary of the proposed budget, including a statement of the amount of any reserves, and a statement of the basis on which such reserves are calculated and funded. Simultaneously, the board shall set a date not less than ten days or more than sixty days after providing the summary for either a meeting of the unit owners or a vote by

ballot without a meeting to consider approval or rejection of the proposed budget. If, at that meeting or in the vote by ballot, a majority of unit owners actually voting votes to reject the proposed budget, the proposed budget shall be rejected, provided not less than thirty-three and one-third per cent of the unit owners entitled to vote on the proposed budget vote at that meeting or in the vote by ballot to reject the proposed budget. If an association's declaration or bylaws include quorum requirements for a meeting, the absence of a quorum at such meeting or participating in the vote by ballot shall not affect rejection or approval of the proposed budget. If a proposed budget is rejected, the budget last approved by the unit owners continues until unit owners approve a subsequent budget. If a proposed budget is not rejected in accordance with the provisions of this subdivision, the proposed budget shall be deemed approved.

(b) (1) Except as provided in subdivision (2) of this subsection, the executive board, at any time, may propose a special assessment. Not later than thirty days after adoption of a proposed special assessment, the executive board shall provide to all unit owners a summary of the proposed special assessment. Unless the declaration or bylaws otherwise provide, if the proposed special assessment, together with all other special and emergency assessments proposed by the executive board in the same calendar year, do not exceed fifteen per cent of the association's last adopted periodic budget for that calendar year, the proposed special assessment is effective without approval of the unit owners. Otherwise, the board shall set a date not less than ten days or more than sixty days after providing the summary for either a meeting of the unit owners or a vote by ballot without a meeting to consider approval or rejection of the proposed special assessment. If, at that meeting or in the vote by ballot, a majority of all unit owners or any larger number specified in the declaration votes to reject the special assessment, the special assessment shall be rejected. If, at such meeting or in the balloting, a majority of all unit owners or any larger number specified in the declaration does not vote to reject the special assessment, the special assessment shall be approved. The absence of a quorum at such meeting or participating in the vote by ballot shall not affect the rejection or approval of the special assessment. If a proposed special assessment is not rejected in accordance with the provisions of this subdivision, the proposed special assessment shall be deemed approved.

(2) The executive board of an association of a common interest community, or of a master association as defined in section 47-239 exercising the powers

on behalf of one or more common interest communities or for the benefit of the unit owners of one or more common interest communities, which community or communities were established prior to July 3, 1991, and have more than two thousand four hundred residential units, at any time, may propose a special assessment. Not later than thirty days after adoption of a proposed special assessment, the executive board shall provide to all unit owners a summary of the proposed special assessment. Unless the declaration or bylaws otherwise provide, if the proposed special assessment, together with all other special and emergency assessments proposed by the executive board in the same calendar year, do not exceed fifteen per cent of the association's last adopted periodic budget for that calendar year, the proposed special assessment is effective without approval of the unit owners. Otherwise, the board shall set a date not less than ten days or more than sixty days after providing the summary for either a meeting of the unit owners or a vote by ballot without a meeting to consider approval or rejection of the proposed special assessment. If, at that meeting or in the vote by ballot, a majority of unit owners actually voting votes to reject the proposed special assessment, the proposed special assessment shall be rejected, provided not less than thirty-three and one-third per cent of the unit owners entitled to vote on the proposed special assessment vote at that meeting or in the vote by ballot to reject the proposed special assessment. If an association's declaration or bylaws include quorum requirements for a meeting, the absence of a quorum at such meeting or participating in the vote by ballot shall not affect the rejection or approval of the proposed special assessment. If a proposed special assessment is not rejected in accordance with the provisions of this subdivision, the proposed special assessment shall be deemed approved.

(c) If the executive board determines by a two-thirds vote that a special assessment is necessary to respond to an emergency:

(1) The special assessment becomes effective immediately in accordance with the terms of the vote;

(2) notice of the emergency assessment must be provided promptly to all unit owners; and

(3) the executive board may spend the funds paid on account of the emergency assessment only for the purposes described in the vote.

(d) Notwithstanding any provision of the declaration or bylaws to the contrary, at least fourteen days prior to entering into any loan agreement on behalf of the association, the executive board shall

(1) disclose in a record to all unit owners the amount and terms of the loan and the estimated effect of such loan on any common expense assessment, and

(2) afford the unit owners a reasonable opportunity to submit comments in a record to the executive board with respect to such loan.

(e) Unless prohibited or otherwise limited in the declaration, if the executive board proposes to enter into a loan agreement on behalf of the association and to assign its right to future income as security for such loan pursuant to subdivision (14) of subsection (a) of section 47-244, then, in addition to satisfying the requirements of subsection (d) of this section, unit owners of units to which at least a majority of the votes in the association are allocated, or any larger percentage or fraction stated in the declaration, must vote in favor of or agree to such assignment.

§ 47-261f. Litigation involving declarant

(a) The following requirements apply to an association's authority under subdivision (4) of subsection (a) of section 47-244 to institute and maintain a proceeding alleging a construction defect with respect to the common interest community, whether by litigation, mediation, arbitration or administratively, against a declarant or an employee, independent contractor or other person directly or indirectly providing labor or materials to a declarant:

(1) Subject to subsections (e) and (f) of this section, before the association institutes a proceeding described in this section, it shall provide notice in a record of its claims to the declarant and those persons that the association seeks to hold liable for the claimed defects. The text of the notice may be in any form reasonably calculated to give notice of the general nature of the association's claims, including a list of the claimed defects. The notice may be delivered by any method of service and may be addressed to any person if the method of service used:

(A) Provides actual notice to the person named in the claim; or

(B) would be sufficient to give notice to the person in connection with commencement of an action by the association against the person.

(2) Subject to subsection (e) of this section, the association may not institute a proceeding against a person until forty-five days after the association sends notice of its claim to that person.

(3) During the time period set forth in subdivision (2) of this subsection, the declarant and any other person to which the association gave notice may present to the association a plan to repair or otherwise remedy the construction defects described in the notice. If the association does not receive a timely remediation plan from a person to which it gave notice, or if the association does not accept the terms of any remediation plan submitted, the association may institute a proceeding against the person.

(4) If the association receives one or more timely remediation plans, the executive board shall consider promptly those remediation plans and notify the persons to which it directed notice whether the remediation plan is acceptable as presented, acceptable with stated conditions, or not accepted.

(5) If the association accepts a remediation plan from a person the association seeks to hold liable for the claimed defect, or if a person agrees to stated conditions to an otherwise acceptable remediation plan, the parties shall agree on a period for implementation of the remediation plan. The association may not institute a proceeding against the person during the time the remediation plan is being diligently implemented.

(6) Any statute of limitation affecting the association's right of action against a declarant or other person is tolled during the time period set forth in subdivision (2) of this subsection and during any extension of that time because a person to which notice was directed has commenced and is diligently pursuing the remediation plan.

(b) After the time period set forth in subdivision (2) of subsection (a) of this section expires, whether or not the association agrees to any remediation plan, a proceeding may be instituted by:

(1) The association against a person to which notice was directed which fails to submit a timely remediation plan, the plan of which is not acceptable, or which fails to pursue diligent implementation of that plan; or

(2) a unit owner with respect to the owner's unit and any limited common elements assigned to that unit, regardless of any action of the association.

(c) The provisions of this section do not preclude the association from making repairs necessary to mitigate damages or to correct any defect that poses a significant and immediate health or safety risk.

(d) Subject to the other provisions of this section, the determination of whether and when the association may institute a proceeding described in this section may be made by the executive board. The declaration may not require a vote by any number or percentage of unit owners as a condition to institution of a proceeding.

(e) The provisions of this section shall not prevent an association from seeking equitable relief, a remedy in aid of arbitration or a prejudgment remedy under chapter 903a at any time without complying with subdivision (1) or (2) of subsection (a) of this section.

(f) If the time for termination of any period of declarant control occurs and the declarant has failed to comply with subsection (d), (f) or (h) of section 47-245, the limitations set forth in this section and the association's authority to institute litigation shall not apply.

PART IV
PROTECTION OF PURCHASERS

§ 47-262. Applicability of part. Exceptions to requirement of public offering statement or resale certificate

(a) Sections 47-262 to 47-281, inclusive, apply to all units subject to this chapter, except as provided in subsection (b) of this section or as modified or waived by agreement of purchasers of units in a common interest community in which all units are restricted to nonresidential use.

(b) Neither a public offering statement nor a resale certificate need be prepared or delivered in the case of:

(1) A disposition of a unit without consideration;

(2) a disposition pursuant to court order;

(3) a disposition by a government or governmental agency;

(4) a disposition by foreclosure or deed in lieu of foreclosure;

(5) a disposition to a purchaser of a unit restricted to nonresidential use, whether or not the common interest community is subject to this chapter;

(6) a disposition that may be cancelled at any time and for any reason by the purchaser without penalty;

(7) a disposition of a unit in a common interest community that, as provided in subsection (c) of section 47-215,

(A) contains no more than twelve units,

(B) is not subject to any development rights and

(C) does not utilize a master association; or

(8) a disposition of a unit in a planned community in which the declaration limits the annual average common expense liability of all units as provided in subdivision (3) of subsection (a) of section 47-215.

§ 47-263. Public offering statement requirements. Liability

(a) Except as provided in subsection (b) of this section, a declarant, before offering any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of sections 47-264 to 47-267, inclusive.

(b) A declarant may transfer responsibility for preparation of all or a part of the public offering statement to a successor declarant. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection (a) of this section.

(c) A declarant or successor declarant or a dealer who offers a unit to a purchaser shall deliver a public offering statement in the manner prescribed in subsection (a) of section 47-269. The declarant or successor declarant who prepared all or a part of the public offering statement is liable to all persons claiming an interest in the common interest community under section 47-269 for failure to deliver the public offering statement and under section 47-278 for any false or misleading statement set forth therein or for any omission of a material fact therefrom.

(d) If a unit is part of a common interest community and is part of any other real property regime in connection with the sale of which the delivery of a public offering statement is required under the general statutes, a single public offering statement conforming to the requirements of sections 47-264 to 47-267, inclusive, as those requirements relate to each regime in which the unit is located, and to any other requirements imposed under the general statutes, may be prepared and delivered in lieu of providing two or more public offering statements.

§ 47-264. Public offering statement. General provisions and requirements

(a) Except as provided in subsection (b) of this section, a public offering statement shall contain or fully and accurately disclose:

(1) The name and principal address of the declarant and of the common interest community, and a statement that the common interest community is either a condominium, cooperative or planned community;

(2) A general description of the common interest community, including to the extent known, the types, number and declarant's schedule of commencement and completion of construction of buildings and amenities that the declarant anticipates including in the common interest community;

(3) The number of units in the common interest community;

(4) Copies of the declaration, including any surveys and plans, and any other recorded covenants, conditions, restrictions and reservations created by the declarant affecting the common interest community; the bylaws, and any rules or regulations of the association; any deeds, contracts and leases to be signed by or delivered to purchasers at closing, and copies of and a brief narrative description of any contracts or leases that will or may be subject to cancellation by the association under section 47-247;

(5) A projected budget for the association, either within or as an exhibit to the public offering statement, for one year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumptions concerning occupancy and inflation factors. The budget shall include, without limitation:

(A) A statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement;

(B) a statement of any other reserves;

(C) the projected common expense assessment by category of expenditures for the association; and

(D) the projected monthly common expense assessment for each type of unit;

(6) Any services not reflected in the budget that the declarant provides, or expenses that he pays and which he expects may become at any subsequent time a common expense of the association and the projected common expense assessment attributable to each of those services or expenses for the association and for each type of unit;

(7) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;

(8) A brief narrative description of any liens, defects or encumbrances on or affecting the title to the common interest community not otherwise disclosed under subdivision (4) of this subsection;

(9) A description of any financing offered or arranged by the declarant;

(10) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages;

(11) A statement that:

(A) Within fifteen days after receipt of a public offering statement a purchaser, before conveyance, may cancel any contract for purchase of a unit from a declarant, and

(B) if a declarant fails to provide a public offering statement to a purchaser before conveying a unit, that purchaser may recover from the declarant ten per cent of the sales price of the unit plus ten per cent of the share, proportionate to his common expense liability, of any indebtedness of the association secured by security interests encumbering the common interest community;

(12) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common interest community of which a declarant has actual knowledge;

(13) A statement that any deposit made in connection with the purchase of a unit will be held in an escrow account until closing and will be returned to the purchaser if the purchaser cancels the contract pursuant to section 47-269, together with the name and address of the escrow agent;

(14) Any restraints on alienation of any portion of the common interest community and any restrictions

(A) on use, occupancy and alienation of the units, and

(B) on the amount for which a unit may be sold or on the amount that may be received by a unit owner on sale, condemnation or casualty loss to the unit or to the common interest community, or on termination of the common interest community;

(15) A description of the insurance coverage provided for the benefit of unit owners;

(16) Any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the common interest community;

(17) The extent to which financial arrangements have been provided for completion of all improvements that the declarant is obligated to build pursuant to section 47-280;

(18) A brief narrative description of any zoning and other land use requirements affecting the common interest community;

(19) All unusual and material circumstances, features and characteristics of the common interest community and the units;

(20) In a cooperative,

(A) either a statement that the unit owners will be entitled, for federal, state and local income tax purposes, to a pass-through of deductions for payments made by the association for real property taxes and interest paid the holder of a security interest encumbering the cooperative, or a statement that no assurances are made in that regard, and

(B) a statement as to the effect on every unit owner if the association fails to pay real property taxes or payments due the holder of a security interest encumbering the cooperative;

(21) A description of any arrangement described in section 47-219a; and

(22) A statement, if it is determined that the residential common interest community, of which the unit is a part, is an establishment subject to the requirements of sections 22a-134 to 22a-134e, inclusive, and sections 22a-134h and 22a-134i, that summarizes

(A) the status of the environmental condition of the common interest community,

(B) any investigation or remediation activities, and

(C) any environmental use restriction placed or required to be placed on such residential common interest community as a result of such investigation and remediation.

The determination under this subdivision shall be based solely upon actual knowledge, a notice on the land records or, if there is no such notice, an inquiry to the Department of Energy and Environmental Protection of whether a Form I, Form II, Form III or Form IV, as defined in section 22a-134, was submitted to the Department of Energy and Environmental Protection for the residential common interest community of which the unit is a part.

(b) A declarant promptly shall amend the public offering statement to report any material change in the information required to be included in the public offering statement.

§ 47-265. Requirements for public offering statement when community is subject to development rights

If the declaration provides that a common interest community is subject to any development rights, the public offering statement shall disclose, in addition to the information required by section 47-264:

(1) The maximum number of units, and the maximum number of units per acre, that may be created;

(2) A statement of how many or what percentage of the units that may be created will be restricted exclusively to residential use, or a statement that no representations are made regarding use restrictions;

(3) If any of the units that may be built within real property subject to development rights are not to be restricted exclusively to residential use, a statement, with respect to each portion of that real property, of the maximum percentage of the real property areas, and the maximum percentage of the floor areas of all units that may be created therein, that are not restricted exclusively to residential use;

(4) A brief narrative description of any development rights reserved by a declarant and of any conditions relating to or limitations on the exercise of development rights;

(5) A statement of the maximum extent to which each unit's allocated interests may be changed by the exercise of any development right described in subdivision (3) of this section;

(6) A statement of the extent to which any buildings or other improvements that may be erected pursuant to any development right in any part of the common interest community will be compatible with existing buildings and improvements in the common interest community in terms of architectural style, quality of construction and size, or a statement that no assurances are made in those regards;

(7) General descriptions of all other improvements that may be made and limited common elements that may be created within any part of the common interest community pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;

(8) A statement of any limitations as to the locations of any building or other improvement that may be made within any part of the common interest community pursuant to any development right reserved by the declarant, or a statement that no assurances are made in that regard;

(9) A statement that any limited common elements created pursuant to any development right reserved by the declarant will be of the same general types and sizes as the limited common elements within other parts of the common interest community, or a statement of the types and sizes planned, or a statement that no assurances are made in that regard;

(10) A statement that the proportion of limited common elements to units created pursuant to any development right reserved by the declarant will be approximately equal to the proportion existing within other parts of the common interest community, or a statement of any other assurances in that regard, or a statement that no assurances are made in that regard;

(11) A statement that all restrictions in the declaration affecting use, occupancy, and alienation of units will apply to any units created pursuant to any development right reserved by the declarant, or a statement of any differentiations that may be made as to those units, or a statement that no assurances are made in that regard; and

(12) A statement of the extent to which any assurances made pursuant to this section apply or do not apply in the event that any development right is not exercised by the declarant.

§ 47-266. Requirements for public offering statement when ownership or occupancy is by time shares

(a) If the declaration provides that ownership or occupancy of any units, is or may be in time shares, the public offering statement shall disclose, in addition to the information required by section 47-264:

(1) The number and identity of units in which time shares may be created;

(2) the total number of time shares that may be created;

(3) the minimum duration of any time shares that may be created; and

(4) the extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in section 47-258.

(b) The requirements of this section are in addition to the requirements of section 42-103mm.

§ 47-267. Requirements for public offering statement when community contains conversion building

(a) The public offering statement of a common interest community containing any conversion building shall contain, in addition to the information required by section 47-264:

(1) A statement by the declarant, incorporating a report prepared by a registered architect or engineer, describing the present condition of all structural components and mechanical and electrical installations material to the use and enjoyment of the building;

(2) a statement by the declarant of the approximate dates of construction, installation and major repairs, and the expected remaining useful life of each item reported on in subdivision (1) of this subsection, together with the estimated cost, in current dollars, of replacing each of the same; and

(3) a list of any outstanding notices from the municipality of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations.

(b) This section applies only to buildings containing units that may be occupied for residential use. In those cases, this section shall apply to all such buildings and the declarant shall provide a purchaser with the information required by subsection (a) of this section even if the declarant is otherwise exempt under subsection (c) of section 47-215 from the requirement of delivering a public offering statement because the common interest community

(A) contains no more than twelve units,

(B) is not subject to any development rights and

(C) does not utilize a master association.

§ 47-268. Requirements for public offering statement when interest in community is security

If an interest in a common interest community is currently registered with the Securities and Exchange Commission of the United States, a declarant satisfies all requirements of this chapter relating to the preparation of a public offering statement if he delivers to the purchaser a copy of the public offering statement filed with the Securities and Exchange Commission.

§ 47-269. Purchaser's right to cancel

(a) A person required to deliver a public offering statement shall provide a purchaser with a copy of the public offering statement and all amendments thereto before conveyance of the unit, and not later than the date of any contract of sale. A purchaser, before conveyance, may cancel a contract of sale within fifteen days after executing it.

(b) If a purchaser elects to cancel a contract pursuant to subsection (a) of this section, he may do so by hand-delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to his agent for service of process. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly.

(c) If a person required to deliver a public offering statement fails to provide a purchaser to whom a unit is conveyed with that public offering statement and all amendments thereto as required by subsection (a) of this section, the purchaser, in addition to any rights to damages or other relief, is entitled to receive from that person an amount equal to ten per cent of the sale price of the unit, plus ten per

cent of the share, proportionate to his common expense liability, of any indebtedness of the association secured by security interests encumbering the common interest community.

§ 47-270. Resales of units *(Applies to Pre-1984 Communities)*

(a) Except in the case of a sale in which delivery of a public offering statement is required under either this chapter or chapter 825, or unless exempt under subsection (b) of section 47-262, a unit owner shall furnish to a purchaser or such purchaser's attorney, before the earlier of conveyance or transfer of the right to possession of a unit, a copy of the declaration, other than any surveys and plans, the bylaws, the rules or regulations of the association, and a certificate containing:

(1) A statement disclosing the effect on the proposed disposition of any right of first refusal or other restraint on the free alienability of the unit held by the association;

(2) a statement setting forth the amount of the periodic common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner;

(3) a statement of any other fees payable by the owner of the unit being sold;

(4) a statement of any capital expenditures in excess of one thousand dollars approved by the executive board for the current and next succeeding fiscal year;

(5) a statement of the amount of any reserves for capital expenditures;

(6) the current operating budget of the association;

(7) a statement of any unsatisfied judgments against the association and the existence of any pending suits or administrative proceedings in which the association is a party, including foreclosures but excluding other collection matters;

(8) a statement of the insurance coverage provided for the benefit of unit owners, including any schedule of standard fixtures, improvements and betterments in the units covered by the association's insurance that the association prepared pursuant to subsection (b) of section 47-255;

(9) a statement of any restrictions in the declaration affecting the amount that may be received by a unit owner on sale, condemnation, casualty loss to the unit or the common interest community or termination of the common interest community;

(10) in a cooperative, an accountant's statement, if any was prepared, as to the deductibility for federal income tax purposes by the unit owner of real property taxes and interest paid by the association;

(11) if the association is unincorporated, the name of the statutory agent for service of process filed with the Secretary of the State pursuant to section 47-244a;

(12) a statement describing any pending sale or encumbrance of common elements;

(13) a statement disclosing the effect on the unit to be conveyed of any restrictions on the owner's right to use or occupy the unit or to lease the unit to another person;

(14) a statement disclosing the number of units whose owners are at least sixty days' delinquent in paying their common charges on a specified date within sixty days of the date of the statement;

(15) a statement disclosing the number of foreclosure actions brought by the association during the past twelve months and the number of such actions pending on a specified date within sixty days of the date of the statement;

(16) a statement disclosing

(A) the most recent fiscal period within the five years preceding the date on which the certificate is being furnished for which an independent certified public accountant reported on a financial statement, and

(B) whether such report on a financial statement was a compilation, review or audit;

(17) any established maintenance standards adopted by the association pursuant to subsection (e) of section 47-257;

(18) a copy of any notice recorded on land records pursuant to subsection (a) of section 22a-134i; and

(19) a statement that provides the volume and page number from the applicable municipal land records of any environmental use restriction, as defined in section 22a-133n, that encumbers the parcel or any portion of the parcel on which the common interest community is located.

(b) (1) Not later than ten business days after receipt of a request in a record from a unit owner and payment by the unit owner of a fee established by the association that does not exceed one hundred twenty-five dollars plus either five cents for each page of document copies provided by the association pursuant to this section or a flat fee of ten dollars for an electronic version of those documents, for the preparation of the certificate and other documents, the association shall furnish a certificate containing the information necessary to enable the unit owner to comply with this section and any other documents required by this section. An additional fee of not more than ten dollars for expedited preparation may be established if the certificate and all required documents are furnished to the unit owner not later than three business days after the request in a record is received by the association. No fee under this subsection may include costs for services provided by an attorney or paralegal.

(2) A unit owner providing a certificate and documents pursuant to subsection (a) of this section is not liable to the purchaser for any erroneous information provided by the association and included in the certificate and documents.

(c) A purchaser is not liable for any unpaid assessment or fee greater than the amount set forth in the certificate prepared by the association. A unit owner is not liable to a purchaser for the failure or delay of the association to provide the certificate and documents in a timely manner, but the purchase contract is voidable by the purchaser until

(1) the expiration of five days, excluding Saturdays, Sundays and legal holidays, after the certificate and documents have been delivered to such purchaser or such purchaser's attorney, or seven days, excluding Saturdays, Sundays and legal holidays, after the certificate and documents have been sent by registered or certified mail or mail evidenced by a certificate of mailing to such purchaser or such purchaser's attorney, or

(2) conveyance, whichever first occurs.

(d) A dealer who offers a unit which he owns shall, in addition to the material provided to a purchaser or such purchaser's attorney under subsection (a) of this section, furnish to such purchaser or such purchaser's attorney a copy of any public offering statement that the dealer received at the time he purchased his unit.

(e) The association shall, during the month of January in each year, file in the office of the town clerk of the municipality or municipalities where such common interest community is located a certificate setting forth the name and mailing address of the officer of the association or the managing agent from whom a resale certificate may be requested, and shall, thereafter, file such a certificate within thirty days of any change in the name or address of such officer or agent. The town clerk shall record such certificate in the land records.

§ 47-271. Escrow of deposits. Distribution of interest

(a) Any deposit made in connection with the purchase or reservation of a unit from a person required to deliver a public offering statement pursuant to subsection (c) o section 47-263 shall be placed in escrow and held either in this state or in the state where the unit is located in an account designated solely for that purpose by a licensed title insurance company, an attorney, a licensed real estate broker, an independent bonded escrow company or an institution whose accounts are insured by a governmental agency or instrumentality until

(1) delivered to the declarant at closing;

(2) delivered to the declarant because of the purchaser's default under a contract to purchase the unit; or

(3) refunded to the purchaser.

(b) If such deposit is made in connection with the purchase or reservation of a unit to be occupied by the purchaser and is placed in an interest-bearing escrow account other than an account established and maintained pursuant to section 51-81c, any interest which accrues thereon from the date of such deposit until its disposition pursuant to subdivision (1), (2) or (3) of subsection (a) of this section shall be distributed as follows:

(1) If such deposit is delivered to the declarant at closing or refunded to the purchaser, such interest shall be divided equally between the purchaser and the declarant; and

(2) if such deposit is delivered to the declarant because of the purchaser's default under a contract to purchase the unit, such interest shall be paid to the declarant.

(c) Any person who procures the wrongful release of any escrow funds to the declarant or to a third party, with intent to defraud the purchaser, shall be guilty of embezzlement and on conviction shall be punished in the manner provided by law.

§ 47-272. Release of liens

(a) In the case of a sale of a unit where delivery of a public offering statement is required pursuant to subsection (c) of section 47-263, a seller,

(1) Before conveying a unit, shall record or furnish to the purchaser releases of all liens, except liens on real property that a declarant has the right to withdraw from the common interest community, that the purchaser does not expressly agree to take subject to or assume and that encumber

(A) in a condominium, that unit and its common element interest, and

(B) in a cooperative or planned community, that unit and any limited common elements assigned thereto, or

(2) shall provide a surety bond or substitute collateral for or insurance against the lien in accordance with state law for substitution of such a security.

(b) Before conveying real property to the association, the declarant shall have that real property released from:

(1) All liens the foreclosure of which would deprive unit owners of any right of access to or easement of support of their units, and

(2) all other liens on that real property unless the public offering statement describes certain real property that may be conveyed subject to liens in specified amounts.

§ 47-273. Rights of tenants in conversion buildings

The rights of residential tenants in conversion buildings are governed by sections 47-282 to 47-292, inclusive, and by section 47a-23c.

§ 47-274. Express warranties of quality

(a) Express warranties made by any seller to a purchaser of a unit, if relied on by the purchaser, are created as follows:

(1) Any affirmation of fact or promise which relates to the unit, its use, or rights appurtenant thereto, area improvements to the common interest community that would directly benefit the unit, or the right to use or have the benefit of facilities not located in the common interest community, creates an express warranty that the unit, area improvements and related rights and uses will conform to the affirmation or promise;

(2) Any model or description of the physical characteristics of the common interest community, including plans and specifications of or for improvements, creates an express warranty that the common interest community will substantially conform to the model or description unless the model or description clearly discloses that it is only proposed or is subject to change;

(3) Any description of the quantity or extent of the real property comprising the common interest community, including surveys, creates an express warranty that the common interest community will conform to the description, subject to customary tolerances; and

(4) A provision that a purchaser may put a unit only to a specified use is an express warranty that the specified use is lawful.

(b) Neither formal words, such as "warranty" or "guarantee", nor a specific intention to make a warranty, are necessary to create an express warranty of quality, but a statement purporting to be merely an opinion or commendation of the real property or its value does not create a warranty.

(c) Any conveyance of a unit transfers to the purchaser all express warranties of quality made by previous sellers only to the extent such a conveyance would transfer warranties pursuant to chapter 827.

§ 47-275. Implied warranties of quality

(a) A declarant warrants to a purchaser that a unit will be in at least as good condition at the earlier of the time of the conveyance or delivery of possession as it was at the time of contracting, reasonable wear and tear excepted.

(b) A declarant impliedly warrants to a purchaser that a unit and the common elements in the common interest community are suitable for the ordinary uses of real property of its type and that any improvements made or contracted for by him, or made by any person before the creation of the common interest community, will be:

(1) Free from defective materials; and

(2) constructed in accordance with applicable law, according to sound engineering and construction standards, and in a workmanlike manner.

(c) In addition, a declarant warrants to a purchaser of a unit that may be used for residential use that an existing use, continuation of which is contemplated by the parties, does not violate applicable law at the earlier of the time of conveyance or delivery of possession.

(d) Warranties imposed by this section may be excluded or modified as specified in section 47-276.

(e) For purposes of this section, improvements made or contracted for by an affiliate of a declarant are made or contracted for by the declarant.

(f) Any conveyance of a unit transfers to the purchaser all of the declarant's implied warranties of quality only to the extent such a conveyance would transfer warranties pursuant to chapter 827.

(g) The warranties provided to a purchaser by a declarant pursuant to this section with respect to common elements shall also extend to the association.

§ 47-276. Exclusion or modification of implied warranties of quality

(a) Except as limited by subsection (b) of this section with respect to a purchaser of a unit that may be used for residential use, implied warranties of quality:

(1) May be excluded or modified by agreement of the parties; and

(2) are excluded by expression of disclaimer, such as "as is", "with all faults", or other language that in common understanding calls the purchaser's attention to the exclusion of warranties.

(b) With respect to a purchaser of a unit that may be occupied for residential use, no general disclaimer of implied warranties of quality is effective, but a declarant may disclaim liability in an instrument signed by the purchaser for a specified defect or class of defects or specified failure to comply with applicable law, if the defect or failure entered into and became a part of the basis of the bargain.

§ 47-277. Action for breach of warranty. Statute of limitations

(a) Unless a period of limitation is tolled under section 47-253, a judicial proceeding for breach of any obligation arising under section 47-274 or 47-275 shall be commenced within three years after the cause of action accrues.

(b) Subject to subsection (c) of this section, a cause of action for breach of warranty of quality, regardless of the purchaser's or association's lack of knowledge of the breach, accrues:

(1) As to a unit, at the time the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or at the time of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(2) as to each common element, at the time the common element is completed and first used by a bona fide purchaser.

(c) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

§ 47-278. Cause of action to enforce chapter, declaration or bylaws. Attorney's fees and costs. Alternative dispute resolution *(Applies to Pre-1984 Communities)*

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

(b) Parties to a dispute arising under this chapter, the declaration or the bylaws may agree to resolve the dispute by any form of binding or nonbinding alternative dispute resolution, provided:

(1) A declarant may agree with the association to do so only after the period of declarant control has expired; and

(2) an agreement to submit to any form of binding alternative dispute resolution must be in a record authenticated by the parties.

(c) (1) (A) Notwithstanding any provision in the declaration or bylaws to the contrary, and except as otherwise provided under subdivision (2) of this subsection, before an association brings an action or institutes a proceeding against a unit owner other than a declarant, the association shall schedule a hearing to be held during a regular or special meeting of the executive board and shall send a written notice by regular mail, to the unit owner at least ten business days prior to the date of such hearing. Such notice shall include a statement of the nature of the claim against the unit owner and the date, time and place of the hearing.

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

(C) Notwithstanding any provision in the declaration or bylaws to the contrary, the executive board shall make such decision and the association shall send such decision in writing by regular mail, to the unit owner, not later than thirty days after the date on which the hearing concludes.

(2) The provisions of subdivision (1) of this subsection shall not apply to an action brought by an association against a unit owner

(A) to prevent immediate and irreparable harm, or

(B) to foreclose a lien for an assessment attributable to a unit or fines imposed against a unit owner pursuant to section 47-258.

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

(2) Notwithstanding any provision in the declaration or bylaws to the contrary, not later than thirty days after date on which the association receives such request, the association shall schedule a hearing to be held during a regular or special meeting of the executive board and shall send written notice by regular mail, to the unit owner at least ten business days prior to the date of such hearing. Such notice shall include the date, time and place of the hearing. Such hearing shall be held not later than forty-five days after the date on which the association receives such request.

(3) Notwithstanding any provision in the declaration or bylaws to the contrary, the executive board shall make a decision on the unit owner's claim and the association shall send such decision in writing by regular mail, to the unit owner, not later than thirty days after the date on which the hearing concludes.

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

§ 47-279. Labeling of promotional material

No promotional material may be displayed or delivered to prospective purchasers which describes or portrays an improvement that is not in existence unless the description or portrayal of the improvement in the promotional material is conspicuously labeled or identified either as "MUST BE BUILT" or as "NEED NOT BE BUILT".

§ 47-280. Declarant's obligation to complete and restore

(a) Except for improvements labeled "NEED NOT BE BUILT", the declarant shall complete all improvements depicted on any site plan or other graphic representation, including any surveys or plans prepared pursuant to section 47-228, whether or not that site plan or other graphic representation is contained in the public offering statement or in any promotional material distributed by or for the declarant.

(b) The declarant is subject to liability for the prompt repair and restoration, to a condition compatible with the remainder of the common interest community, of any portion of the common interest community affected by the exercise of rights reserved pursuant to or created by section 47-229, 47-230, 47-231, 47-232, 47-234 or 47-235.

§ 47-281. Substantial completion of units required

In the case of a sale of a unit in which delivery of a public offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, until the declaration is recorded and the unit is substantially completed, as evidenced by a recorded certificate of substantial completion executed by a registered architect, surveyor or engineer, or by issuance of a certificate of occupancy authorized by law.

PART V
COMMON INTEREST COMMUNITIES CONTAINING CONVERSION BUILDINGS

§ 47-282. Statement of policy

It is declared that

(1) a severe rental housing shortage exists in this state,

(2) the current rate at which dwelling units are being converted into common interest communities has created a state-wide housing emergency,

(3) it is in the public interest to preserve a number of leased dwelling units as rentals for those persons who, because of increasing age, infirmity or other functional limitations, are least likely to be able to afford to purchase housing and are most susceptible to mental and physical health problems that may result from the trauma of being forced to search for housing in a market where the vacancy rate

for leased dwelling units is approaching zero in many localities,

(4) because towns, cities and boroughs may not regulate the conversion of residential rental property to dwelling units in common interest communities, except as provided in this section, there is a need for state-wide action, and

(5) current economic conditions, including fluctuating interest rates, may stabilize thereby easing the housing crisis which now exists.

§ 47-283. Definitions

For purposes of sections 47-282 to 47-293, inclusive:

(1) "Conversion notice" means the conversion notice specified by section 47-284;

(2) "Converted unit" means a dwelling unit or a space or lot in a mobile manufactured home park that

(A) was not in a common interest community when originally leased to its current tenant and

(B) is now in a common interest community or is located in a building in which a unit is being offered for sale, or in a mobile manufactured home park in which a space or lot is being offered for sale, as part of a common interest community;

(3) "Tenant" means a tenant, as defined in section 47a-1, or a resident, as defined in section 21-64, including a resident who owns his own mobile manufactured home;

(4) "Conversion tenant" means a tenant who occupies a dwelling unit or a space or lot in a mobile manufactured home park both before and after it becomes a converted unit; and

(5) "Transition period" means, with respect to a conversion tenant, the period of time beginning on the date when that tenant's dwelling unit or space or lot in a mobile manufactured home park becomes a converted unit, and ending nine months after that tenant receives a conversion notice or when his existing lease ends, whichever is later.

§ 47-284. Conversion tenant's right to conversion notice and public offering statement

(a) At least nine months before a conversion tenant will be required to vacate a converted unit, other than for reasons permitted by subsection (b) of section 47a-23c, and, if a tenant has a purchase right pursuant to section 47-285, at least ninety days prior to the sale of the converted unit by the declarant to a person other than a conversion tenant, a declarant shall give that tenant a conversion notice and provide that tenant with a public offering statement when otherwise required by section 47-263 or 47-267.

(b) The conversion notice shall inform a tenant of:

(1) The date the declarant converted, or intends to convert, the building to a common interest form of ownership;

(2) the right of the tenant during the transition period to protection from eviction;

(3) the exclusive right of the tenant, as described in section 47-285, to purchase his converted unit during the first ninety days after receipt of the conversion notice;

(4) the right of the tenant, as described in section 47-286, to terminate his tenancy and abandon his converted unit on thirty days notice, and the right of each qualified tenant, as described in section 47-287, to a relocation payment;

(5) the availability from the Department of Economic and Community Development of information concerning governmental assistance to

(A) purchase the converted unit or alternative housing, or

(B) find, and relocate to, alternative housing; and

(6) the address and phone number for information concerning the availability of relocation payments and for information from the Department of Economic and Community Development concerning governmental assistance.

(c) The conversion notice and public offering statement shall be hand-delivered or sent by certified mail, return receipt requested, to the address of the dwelling unit and to any other mailing address provided by a tenant.

§ 47-285. Conversion tenant's right to purchase converted unit

(a) For the first ninety days after giving a conversion notice to a tenant, a declarant shall offer to convey the converted unit occupied by that tenant to that tenant. If a tenant fails to purchase the converted unit during that ninety-day period, the declarant may not offer to dispose of an interest in that converted unit during the following nine months at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This provision does not apply to any unit which will be restricted exclusively to nonresidential use or the boundaries of which do not substantially conform to the dimensions of the unit before conversion.

(b) If a declarant, in violation of subsection (a) of this section conveys a converted unit to a purchaser for value who has no knowledge of the violation, the recordation of the deed conveying that converted unit, or, in a cooperative, the conveyance, extinguishes any right a tenant may have under subsection (a) of this section to purchase if the deed or conveyance states that the declarant has complied with said subsection (a), but does not affect the right of a tenant to recover damages under section 47-292 from the declarant for a violation of said subsection (a).

(c) If a tenant fails to purchase the converted unit during that ninety-day period, and the declarant thereafter enters into a contract to sell that unit to a third person, the declarant shall, within one month of executing that contract, notify the tenant of the name and address of the contract purchaser. The declarant's failure to comply with this subsection shall not constitute a defect in the title which he conveys to a third person, or otherwise affect the marketability of title to that unit.

§ 47-286. Conversion tenant's right to terminate lease and abandon unit

A conversion tenant may, without penalty, terminate an existing lease before it expires at any time during a transition period after he receives a conversion notice, if he notifies the declarant of his intention to abandon thirty days in advance. A conversion tenant may abandon his unit at any time during a transition period on termination or expiration of his lease.

§ 47-287. Conversion tenant's right to relocation payment

(a) Except as provided in subsection (b) of this section, a conversion tenant is entitled to a relocation payment from the declarant if the tenant's household income qualifies under subsection (c) of this section and he moves from his converted unit either during or after the transition period. The relocation payment shall be in the amount of two months rent or one thousand dollars, whichever is greater.

(b) If a conversion tenant executes a written lease for a term of at least one year at any time after the tenant receives a conversion notice, the lease may provide that, after the transition period ends, the tenant waives his right to a relocation payment pursuant to this section.

(c) A tenant's household income qualifies, for purposes of subsection (a) of this section, if his household has an adjusted gross income for federal income tax purposes of less than twenty-one thousand dollars if the tenant is unmarried, or twenty-five thousand dollars if he is married.

(d) The relocation payment shall be made within ten days after the tenant vacates and shall not be considered as income or resources to the extent so provided for payment to a displaced person pursuant to section 8-277.

§ 47-288. Registration of common interest community. Notice to Department of Economic and Community Development

(a) If a common interest community contains or will contain any conversion building, or any land currently or formerly in a mobile manufactured home park, in which any unit was last occupied as a dwelling unit, the declarant, prior to creating such common interest community, shall register such common interest community and each dwelling unit therein with the Commissioner of Economic and Community Development in such manner as the commissioner may prescribe by regulations adopted pursuant to section 47-295. The declarant's registration shall be accompanied by a registration fee of fifty dollars per dwelling unit being converted. No declarant shall offer to sell, sell or otherwise dispose of a unit in a common interest community until such registration is filed and such registration fees are paid.

(b) At the time of giving a conversion notice, the declarant shall send a copy of the conversion notice to the Commissioner of Economic and Community Development, together with:

(1) The address of the property;

(2) the number of occupied dwelling units in the property on the day of the notice;

(3) the number of dwelling units in the property on the day of the notice; and

(4) the number of dwelling units in the property occupied at any time during the preceding twelve months.

(c) The Commissioner of Economic and Community Development, in addition to taking any action authorized by section 47-294, shall require the declarant to

(1) provide the Department of Economic and Community Development with a copy of the public offering statement and

(2) distribute to tenants any material which the commissioner has prepared regarding the availability of governmental assistance.

(d) Within six months of giving the conversion notice, the declarant shall notify the Commissioner of Economic and Community Development of:

(1) The number of tenants who purchased their dwelling units or, in the case of a mobile manufactured home park, who purchased the space or lot upon which their dwelling units sit;

(2) the number of tenants who stayed in their dwelling units and did not purchase;

(3) the number of tenants who moved;

(4) the number of moving tenants who received a relocation payment under section 47-287; and

(5) the number of tenants against whom summary process proceedings were begun.

(e) The notification to the Commissioner of Economic and Community Development pursuant to subsection (d) of this section shall be accompanied by a statement of the declarant, certified as true under penalty of false statement, that, to the best of

his knowledge and belief, all tenants entitled to a relocation payment under section 47-287 received such payment. If any tenant entitled to a relocation payment did not receive it, the statement shall describe why the payment was not made.

§ 47-289. Rent increases of conversion tenants

(a) During a transition period, a conversion tenant's rent may not be increased for any reason.

(b) After a transition period ends, the rent of any conversion tenant, including tenants protected under section 47a-23c, may be increased only to the extent such increase is fair and equitable, based on the criteria set forth in section 7-148c. At least sixty days notice of any proposed increase shall be given to a conversion tenant. A rent increase may include the amount of assessment on that dwelling unit for the payment of current common expenses under section 47-257, to the extent not already included in the tenant's rent.

(c) Any converted tenant aggrieved by a rent increase or proposed rent increase may seek the relief available under subdivision (2) of subsection (c) of section 47a-23c.

§ 47-290. Eviction of conversion tenants

(a) During a transition period, a conversion tenant may be evicted from a converted unit only for a reason which would justify eviction under subsection (b) of section 47a-23c.

(b) After a transition period ends, a conversion tenant may be evicted for any reason permitted by law, including expiration of the tenant's lease, unless protected by section 47a-23c.

(c) During any period of occupancy by a conversion tenant between the expiration of the conversion tenant's lease and the expiration of the transition period, the landlord and the conversion tenant shall comply with the substantive provisions of the expired lease and with any regulations previously adopted by the landlord in accordance with section 47a-9.

(d) (1) Except as provided in subdivision (2), if

(A) a tenant vacates a dwelling unit or removes a dwelling unit from a mobile manufactured home park after receiving a notice to quit based on a reason other than a reason listed in subdivision (1) of subsection (b) of section 47a-23c; and

(B) the dwelling unit or the space or lot in a mobile manufactured home park occupied by such tenant becomes a converted unit, as defined in subsection (2) of section 47-283, within nine months of the date of such notice to quit; and

(C) no other tenant subsequently occupied the dwelling unit or the space or lot before it became a converted unit,

that tenant shall be entitled to the benefits provided to a conversion tenant under sections 47-284, 47-285 and 47-287. The notice required by section 47-284 shall be given to such tenant by mailing the notice to him at his last-known address.

(2) The rights provided by section 47-285 do not apply to a tenant who, before eviction, occupied a unit or a space or lot in a mobile manufactured home park which will be restricted exclusively to nonresidential use or the boundaries of which do not substantially conform to the dimensions of the unit or the space or lot before conversion.

(3) A tenant in possession may, as a defense to a summary process action or other action for possession based upon a reason other than a reason listed in subdivision (1) of subsection (b) of section 47a-23c, or in an independent action brought by such tenant, introduce evidence of the owner's intent to create a common interest community which will include such tenant's dwelling unit or the space or lot in a mobile manufactured home park on which such tenant's dwelling unit sits or the owner's intent to convey such tenant's dwelling unit or space or lot to another person who intends to create a common interest community. If the court finds that there is a substantial probability that the owner or his successor in interest will create a common interest community within nine months from the date the action by the owner or tenant was instituted, the court shall enjoin the action for possession and may grant other appropriate relief. If the owner or his successor in interest intends to substantially rehabilitate the

property before conversion and such rehabilitation cannot be reasonably accomplished if the tenant remains in occupancy, in lieu of enjoining the dispossession of the tenant, the court may make reasonable provisions to insure that the tenant receives adequate time to locate other housing and that the tenant will receive the benefits to which a conversion tenant is entitled under sections 47-284, 47-285 and 47-287.

§ 47-291. Unenforceable lease provisions

Except pursuant to a purchase agreement with the tenant for the purchase of his dwelling unit or the space or lot in a mobile manufactured home park on which his dwelling unit sits, any provision in a tenant's lease that allows a landlord or declarant at his option, on conversion of a building or mobile manufactured home park to a common interest community, to cancel and terminate such contract or lease without conforming to the requirements of sections 47-282 to 47-293, inclusive, is unenforceable and contrary to public policy.

§ 47-292. Tenant's cause of action

A tenant who claims to be aggrieved by a violation of sections 47-282 to 47-293, inclusive, or of section 47a-23c or who claims that a landlord, declarant or unit owner has harassed him or engaged in conduct with the purpose of improperly inducing him to vacate his dwelling unit or the space or lot in a mobile manufactured home park on which his dwelling unit sits may bring an action in the superior court for the judicial district in which such person resides. The court may, in addition to damages, or in lieu of damages, order injunctive or other equitable relief and award the plaintiff costs and reasonable attorney's fees.

§ 47-293. Applicability of protection afforded conversion tenants

(a) The protection provided by sections 47-282 to 47-292, inclusive, to conversion tenants shall not apply to

(1) conversion tenants of condominiums created before May 7, 1980, or

(2) conversion tenants of all other common interest communities created before January 1, 1983.

(b) Sections 47-282 to 47-292, inclusive, shall not be construed to change the rights of any tenant protected by public act 80-370.

§ 47-294. Complaints of violations. Investigations. Enforcement action by Attorney General

(a) The Commissioner of Economic and Community Development may receive complaints of any violations of sections 47-282 to 47-293, inclusive, section 47a-23c as it applies to the conversion of dwelling units or mobile manufactured home parks into common interest communities, and any other law concerning the conversion of dwelling units or mobile manufactured home parks into common interest communities. The commissioner shall cause investigations of such violations to be made and shall make every effort to ensure compliance with such laws. If the commissioner believes that any such laws are being violated, he shall refer the matter to the Attorney General for further enforcement.

(b) The Attorney General, acting on behalf of the Commissioner of Economic and Community Development or the people of the state of Connecticut, may bring an action in the superior court for the judicial district in which the property is located to enforce the provisions of sections 47-282 to 47-293, inclusive, section 47a-23c as it applies to the conversion of dwelling units or mobile manufactured home parks into common interest communities, and any other law concerning the conversion of dwelling units or mobile manufactured home parks into common interest communities. In any such action, the Attorney General may obtain, for the benefit of persons adversely affected by the violations of such laws, any relief to which such persons may be entitled. The Attorney General may combine such action with any other action within his power to maintain, including an action under chapter 735a. Nothing in this section shall limit the right of a person adversely affected by violations of the law from bringing a private cause of action under sections 47-292 and 42-110g or any other law which may entitle such person to relief.

§ 47-295. Regulations

The Commissioner of Economic and Community Development shall adopt regulations, in accordance with the provisions of chapter 54 to carry out the purposes of sections 47-288 and 47-294. Such regulations shall provide for the form of registration to be required pursuant to section 47-288 and the information to be provided therein.

§§ 47-296 to 47-299. Reserved for future use

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