REVOLUTION REVISED
Changes Adopted to the New CIOA Legislation
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By the time you read this, Public Act 09-225, the series of major amendments to the Common Interest Ownership Act adopted during last year's legislative session, will have officially gone into effect. July 1, 2010 is the delayed effective date which the Connecticut legislature had given communities so that they would have a full year to bring their documents and practices into compliance. During this time, CAI has been educating its member associations on these sweeping new changes, and condo boards and their lawyers have been working hard to get themselves ready.

At the tail-end of this year's session just a few weeks ago, the Connecticut legislature approved last-minute "amendments to the amendments" as Public Act 10-186. Governor Rell has not signed them into law as of this writing, but she will almost certainly to do so. When that happens, these changes will go into effect along with the others on July 1, 2010. Most of the revisions are technical in nature, such as minor corrections and clarifications of language and section numbers. However, four of the changes are very significant.

First and most importantly, the newest changes make nearly all of the previous changes applicable to virtually every community regardless of its age. The 2009 amendments had exempted communities created before 1984 from many of the new changes, but this will no longer be the case. Older condominiums which the legislature had previously told would not have to adopt several of the changes will in fact have to do so.
These include:

- The new law's default of 20% unit owner attendance as the threshold for a quorum unless the bylaws provide otherwise. Communities created before 1984 previously had a default quorum requirement of a majority. In addition, a quorum established at the beginning of a Board meeting can be lost if members leave in the middle of it.

- The amendments which count association-owned units toward quorums and votes, prohibit any one person from casting more than 15% of all of the association's votes with undirected proxies, and allow unit owners to vote on issues by referendum instead of a meeting. These are all default rules which declarations and bylaws can opt out of with clear language.

- The new law's requirements that all rules adopted by the Board must be "reasonable," that the Board must give at least 10 days' notice to the unit owners before adopting or changing the rules and prompt notice after, and that rules cannot be used to ban state flags, political signs, or unit owner meetings to discuss community issues in common areas.

- The new law's provisions relating to how associations send notices to unit owners, including to an e-mail address if the unit owner provides one.

- The change that overrides existing bylaws to say that the unit owners can vote to remove any board member or officer by majority vote, with or without cause, at a properly-noticed meeting after allowing him or her the opportunity to be heard.

- The new procedures for adopting budgets and assessments, which include the notice requirements and consideration opportunities for unit owners. In addition, the association's future income cannot be pledged as collateral for a loan without a unit owner majority vote unless the declaration provides otherwise.

Second, the new revisions will alter the controversial new requirement, applicable to all communities, that every unit owner is entitled to notice and an agenda at least 10 days before every non-emergency Board and committee meeting not already included in a published schedule. This requirement will be reduced from 10 to 5 days in most cases. Meetings in which the Board will consider whether to adopt, amend, or repeal a rule, as well as budget meetings and other general and special unit owner meetings, will continue to require at least 10 days advance notice.

A third revision will alter the disclosures needed in resale certificates in two ways. A requirement in the existing law that the printing, photocopying, and related costs associated with compiling the resale package be itemized in the certificate has been deleted, so this no longer need be done starting July 1, 2010. In addition, the new law's requirement that the certificate state the number of units whose owners are at least 60 days delinquent in their common charges now specifies that the date of determining that figure is not the date of the certificate itself, but rather a date chosen by the association within 60 days before the certificate's date.

Finally, the new revisions will expand on a provision in the new law which allows communities to presume that mortgage-holders consent to proposed declaration amendments if they fail to object within 45 days after being notified. Effective July 1, 2010, communities can make the same presumption for proposed bylaw amendments as well. Notably, this provision went into effect upon passage last year for proposed declaration amendments, but the delayed effective date remains applicable for proposed bylaw amendments.

Unfortunately these changes will catch a number of communities by surprise. Several had already obtained legal advice on, budgeted for, or even approved revisions to their documents relying on the previous version of the CIOA amendments. It is now more crucial than ever that associations work very closely with their legal counsel to ensure that they do not run afoul of the newly-revised laws.

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