

## **CONNECTICUIT**

**Sec. 47-202. Definitions.** 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) "Association" or "unit owners' association" means the unit owners' association organized under section 47-243.

(4) "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.

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

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

(7) "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) real property taxes on, (B) insurance premiums on, (C) maintenance of, or (D) improvement of, any other real property other than that unit described in the declaration. "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.

(8) "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.

(9) "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.

(10) "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.

(11) "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.

(12) "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.

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

(14) "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.

(15) "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.

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

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

(18) "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.

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

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

(21) "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.

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

(23) "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.

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

(25) "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.

(26) "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.

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

(28) "Security interest" means an interest in real property or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term 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.

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

(30) "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.

(31) "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. 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.

(32) "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.

History: P.A. 84-472 amended Subdiv. (7) to exclude from the definition of a common interest community an association of property owners funded solely by voluntary payments from those owners, and to increase from twenty to forty years the minimum period for holding a leasehold interest in a unit that constitutes "ownership of a unit"; P.A. 91-341 amended Subdiv. (7) to add provision that "ownership of a unit" does not include the interest which a resident holds in a mutual housing association by virtue of either a state contract for financial assistance or an individual occupancy agreement; P.A. 95-79 redefined "person" to include a limited liability company, effective May 31, 1995; P.A. 95-187 amended the definition of "common elements" by redesignating the existing provisions re a condominium or cooperative and re a planned community as Subparas. (A)(i) and (A)(ii), respectively, and adding new Subpara. (B) to include in the definition any other interests in real property for the benefit of unit owners which are subject to the declaration.

**Sec. 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.

(P.A. 83-474, S. 4, 96; P.A. 95-187, S. 2.) rovided in section 47-215" to prohibition on certain actions by the declarant.

**Sec. 47-204. Separate titles and taxation. Recording of certificate by cooperative. Conveyance of interest in cooperative.** (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 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.

History: P.A. 84-472 added Subsec. (e) re the recording of a certificate by the association of a cooperative created before January 1, 1984, the contents, effect and amendment of such a certificate, and the manner of conveyance of an interest in a cooperative.

**Sec. 47-205. Applicability of real property use laws to conversion of buildings to common interest ownership.** 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.

**Sec. 47-206. Eminent domain.** (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), 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.

**Sec. 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.