

<b>Act Number</b>	<b>Session</b>	<b>Bill Number</b>	<b>Total Number of Committee Pages</b>	<b>Total Number of House Pages</b>	<b>Total Number of Senate Pages</b>
PA 71-813		5157	5	8	1
<u>Committee Pages:</u> <ul style="list-style-type: none"> <li>• <i>General Law</i> 479-482</li> </ul>				<u>House Pages:</u> <ul style="list-style-type: none"> <li>• 5006-5013</li> </ul>	<u>Senate Pages:</u> <ul style="list-style-type: none"> <li>• 3402(<i>Consent</i>)</li> </ul>

**H-118**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
1971**

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PART 11  
4831-5162**

Saturday, June 5, 1971

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on mortgages. The third provision in the amendment will prohibit any garnishment prior to final judgment of any of the assets of this organization. I think that these amendments are necessary and will help to make this a better operation. I urge passage of the bill.

MR. SPEAKER:

Further remarks on the bill as amended. If not, all those in favor indicate by saying Aye. Opposed. The bill is passed.

CLERK:

Calendar 1300, Substitute for House Bill 5157 - An Act Concerning Technical Amendments to the Unit Ownership Act.  
General Law.

MR. SPEAKER:

Gentleman from the 22nd.

MR. KABLIK:

I move acceptance of the Joint Committee's favorable report and passage of the bill.

MR. SPEAKER:

Will you remark.

MR. KABLIK:

There are two amendments.

MR. SPEAKER:

Clerk will call Amendment Schedule A.

CLERK:

House Amendment Schedule A, offered by Mr. Kablik of the 22nd.

MR. SPEAKER:

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Gentleman care to outline the amendment.

MR. KABLIK:

I would yield to the gentleman from the 122nd.

CLERK:

Clerk has two amendments.

MR. KABLIK:

All right, I will summarize. The first amendment is directed at the percentage of petition that is required of unit owners to call a new board of directors. Basically, this is (inaudible) These were the areas in which the tenants have the largest objections and in the last 2 to 3 days, I have been serving as a mediator and these have come to be the compromises that have been accepted by both. Mainly, reducing from 75% to 60% the number of unit owners who petition for a new board of directors, particularly when you have an initial board of directors which consist of non-owner members. However, 75% was retained, when (inaudible) We think this is a good distinction, and that is the purport of Schedule A. It also changes from 10 to 5 years the length of time non unit owners can be on the board of directors. That is the extent of the amendment.

MR. SPEAKER:

Further remarks on Amendment Schedule A. If not, all those in favor indicate by saying Aye. Opposed. A is adopted.  
Gentleman from the 22nd.

MR. KABLIK:

At this time I would like to yield to the gentleman of the

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122nd concerning his amendment.

MR. SPEAKER:

Now, Representative Stevens.

MR. STEVENS:

I would move adoption of House Amendment Schedule B.

MR. SPEAKER:

Clerk will call Schedule B.

CLERK:

House Amendment Schedule B, offered by Mr. Stevens of the 122nd.

MR. STEVENS:

And I would outline for the consideration of the Clerk. Earlier this session, we passed House Bill 7642 which was passed by the Senate and signed into law by the Governor. The purport of this amendment is to once again incorporate these changes in the unit ownership act. This is made necessary because if we do not do it, the subsequent passage of this particular bill will act as a repealer of the earlier bill passed this session. What the amendment does, is in line 153, it deletes the word "fair" and puts in place thereof, the word "assessed".

In line 155, it again takes out "fair" and puts in "combined assessed". It then adds in line 156 "for purposes of this provision assessed value shall mean the assessment on the grand list of the municipality". The reason for this is in unit ownerships of condominiums, the builder will place the value of the individual units at the time he puts them up. Unless this

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change is made, that value will stay on the unit for the purpose of sharing the cost of maintenance, which owners must do until it is changed by all of the owners. Assessed value would relate to what the town values each unit and assess as such establish a fairer method of evaluation. The need for this is that the evaluation of your unit in a condominium determines you will pay of the monthly maintenance cost. It is a good amendment, we already passed it, it is already law in Connecticut and I would once again move its adoption.

MR. SPEAKER:

Gentleman from the 46th.

MR. DONNELLY:

I rise to pose a question to Mr. Stevens to be sure that I understand the effect of the amendment. Is it not true that the developer must in recording his declaration establish a fair market value for the purposes that you described before he even begins construction. And if the answer is yes, how can we expect the town tax assessor to assess property that doesn't yet exist.

MR. SPEAKER:

Gentleman from the 122nd care to respond.

MR. STEVENS:

The amendment which inserts the assessed value of the town would only take effect after the units are actually existing, completed and the next tax year begins. The original declaration would precede the application of this amendment.

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MR. SPEAKER:

Further remarks on Amendment Schedule B. If not, all those in favor indicate by saying Aye. Opposed. B is adopted.

Gentleman from the 22nd.

MR. KABLIK:

I move adoption and passage as amended by A and B.

MR. SPEAKER:

Question is on acceptance and passage, as amended by A and B. Will you remark further.

MR. KABLIK:

Very briefly, this represents a technical amendment to the unit ownership act. It is a compromise, it recognizes the fact that the unit owners as well as builder, while giving concession to the builder, have to be protected or we are going to have the unfortunate situation as New York where because of abuses, practically every condiminum has to be reviewed by the Attorney General's Office and we want to keep condominiums being built in Connecticut. This is a good act.

MR. SPEAKER:

Representative Green.

MRS. GREEN:

I would like to add my support to these amendments and thank Representative Kablik for working so hard on this for me.

MR. SPEAKER:

Gentleman from the 13th.

MR. LENGE:

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Through you sir, may I pose a question to Representative Kablik. You state that the amendments are technical and I read, or the changes are technical, and I read in the first section that the bill as now proposed would change the following definition. Building presently under the present law means a building containing two or more units, and the change would now say, a building containing one or more units. My question, in view of that, one owner, one building would it then still be a condominium?

MR. SPEAKER:

Gentleman from the 22nd care to respond.

MR. KABLIK:

Through you, I believe it would be, because the (inaudible) would be retained in terms of the percentage ownership and so forth, if you wish a further explanation, I would yield to Mr. Collins of the 165th for more detail.

MR. COLLINS:

No thanks.

MR. SPEAKER:

Gentleman from the 13th.

MR. LENGE:

How would this differ from an individual owner of a single unit home.

MR. SPEAKER:

Gentleman from the 22nd care to respond.

MR. KABLIK:

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I'm not sure I understand the Representative from the 13th's question, but I believe that the difference would be that his other rights, his undivided interest in the remaining portions of the condominium would exist and be as if he were an owner of another portion of a condominium where there would be 2 or more units.

MR. SPEAKER:

Representative Lenge.

MR. LENGE:

Through you, I am not certain whether that is a response but I do wish to pose one further question. Would this under local zoning be construed to be a multiple dwelling and would it therefore be subject to zoning regulation, planning requirement and all other matters relating thereto as a multiple dwelling unit as distinguished from a 1 unit building and a 1 owner building.

MR. KABLIK:

Through you, my understanding, yes, it would be.

MR. SPEAKER:

Representative Webber of the 113th.

MR. WEBBER:

Through you, I might add to the question, a condominium complex, does it necessarily have to be contiguous dwellings or simplex dwellings, 1 up and 1 down, which do exist in our state today. A condominium can be a group of single family homes, if the owners and the builders so decide to develop a

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condominium wherein all of the owners, all of the occupants, would share the other amenities that this particular development that might offer, such as a swimming pool, tennis courts, and any other recreational activities. This bill, and it is a long and technical bill, merely clears up some of the problems that we have had with the condominium picture in the state of Connecticut. It is a good bill and I hope it passes as amended.

MR. SPEAKER:

Representative Lenge.

MR. LENGE:

In view of the explanations and responses that this would be construed to be a multiple dwelling type complex and that it would therefore be subject to that type of zoning regulation, I concur with the motion to pass the bill and I favor it.

MR. SPEAKER:

Will you remark further. If not, all those in favor indicate by saying Aye. Opposed. The bill is passed.

CLERK:

Calendar 1302, House Bill 5289 - An Act Concerning the Licensing of Psychologists and the Practice of Psychology.

MR. SPEAKER:

Representative from the 17th.

MRS. YACAVONE:

I move acceptance of the Joint Committee's favorable report and passage of the bill.

MR. SPEAKER:

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**JOINT  
STANDING  
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**GENERAL  
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GENERAL LAW

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Association of Home Builders attended a meeting in which the United States Government representatives chided the state of Connecticut and those within the state of Connecticut because of the fact that they haven't utilized 235 and 236 provisions of their F.H.A. Housing Code, and the reason for that is very simple, it is just impossible to build within those codes in large areas in the state of Connecticut because the cost of land is so unduly large that you can't come in within the unit prices which F.H.A. will authorize. I submit that the present zoning practices within the small towns are both shortsighted and unjust, and therefore urge upon this Committee the adoption of H.B. 6854 and 6855. #6854 is specific as to lot size, #6855 sets forth a set of criteria which should be used by the towns in adopting zoning ordinances. Thank you, Mr. Chairman

Rep. Willard: Before I call the next speaker, I call attention to the fact that there is a sign-up sheet there for speakers and we are following that order, so if you want to speak, will you kindly put your name on that list, and we will pick that one up after we have gone through this list. The next speaker will be Mr. Thomas Gallivan.

Mr. Thomas Gallivan: Mr. Chairman, I am appearing here before your Committee on behalf of the Real Property section of the Connecticut Bar Association. I wish to speak in favor of H. B. #6858. H. B. #6862 and H. B. #5157. H. B. #6858 the Real Property Section considers one of the most important bills to be submitted to your Committee. In view of the court decisions of our Supreme Court and I have particular reference to the Dooley case, it has been ruled that planning commissions have no authority to act upon existing subdivisions, those already in existence whether they're illegally, properly made. The net result is that many people own homes in subdivisions that were illegally built without proper approval or in failure to follow all the rules of the particular planning commission. The net effect of those decisions as these property owners have access to no agency to get it approved or acted upon, and the titles to these properties have been left unmarketable, and its an atrocious situation. I have been personally involved in three different subdivisions around the state. Furthermore, the Supreme Court has ruled that planning commissions have no authority to determine whether or not a division of land is or is not a subdivision, or is or is not a resubdivision. Only a court can do that, so that the net effect of these decisions have been that there is a large factor that should be filled in so that the planning commission can act on these particular situations.

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H. B. #6858 does just that. It broadens Section 826, the enabling statute that gives the planning commission the authority, it has by providing that they can act upon existing subdivisions whether illegally made or otherwise, and that they can arrive at such decisions concerning these subdivisions as it feels the public purpose requires. It also authorizes planning commissions to determine in a particular case whether a division of land is or is not a subdivision within the meaning of the local regulations. The passage of this bill would serve a great public purpose. H. B. #6862 is an amendment to existing statute, the existing statute was passed, I believe, in the 1967 Session of the Legislature, and it provides a statute of limitations of 5 years as regards existing buildings that violate zoning regulations as regards the location of a building upon a lot. We have found that 5 years is much too long. What the effect of the bill does is that up to 5 years, the title is really rendered unmarketable in view of this statute, that people say in view of the statute it means that a town can, and well might, bring the action. It's proposed that that limitation period be reduced to one year in line with so many of the state statutes of limitation on the theory that if a town has not moved in on an existing building that violates zoning regulations as regards location, now this is only location on the lot, within one year then the home owner, the owner of the building should be permitted to have a marketable title and be permitted to transfer that property or mortgage that property after a year. Certainly a year is time enough for the public body to move. As regards H. B. #5157, that is a bill which amends in many respects the existing Unit Ownership Act, and it amends it in two respects; one, from a house-keeping standpoint, the existing Unit Ownership Act was a bill drafted by the F.H.A., basically much of its phraseology doesn't conform to Connecticut customs in its recording of filing requirements. For instance, one of the provisions of the existing bill is that the town clerk index condominiums under the name of the buildings in the grant laws index, an impossibility and a lot of nonsense. Many of the amendments that we propose are those kind of housekeeping. However, there are other basic amendments that arise out of this situation, and I notice that the bill that you read, Mr. Chairman, into the record, takes up one of those phases. The Unit Ownership Act that all people are endeavoring to work under today was designed for a vertical apartment house. All its provisions presuppose that when the unit is built, it will be one unit and that will be it, there will be no other units, you're talking about an apartment house. Experience has

shown us that in Connecticut, builders have not adopted vertical apartment house as the condominium. What they have done is they have gone into town houses and garden type apartments. The net effect is that the entire building or buildings, all buildings, are not built at once, they are built in stages, and therefore it is almost impossible to make that kind of a condominium adhere to this act because you're talking about giving unit values, giving names, sizes, etc. of units that are not yet built and may not be built, or built at a time when you don't have any concept of what the value of those units might be. That's the second situation governed by this proposed bill. The Committee, Real Property Section Executive Committee, felt that this bill was so important that we prepared a very detailed analysis which I will submit to the Committee rather than endeavoring to take care of the amendments through an oral presentation. I think the Committee will be able to do the bill greater justice with the written analysis. However, I would be glad to answer any questions.

Rep. Willard: I have one question. Your comments regarding the Dooley case, aren't those matters customarily handled by validating acts periodically each Session?

Mr. Gallivan: No, not as regards subdivisions. No, there has never been any.....

Rep. Willard: It wouldn't be that...I know there are situations if they are not filed properly within the 90 days, and things like that.....

Mr. Gallivan: We took care of that...no, we took care of publication errors in publication for all zoning commissions, zoning boards of appeals as well, but this particular phase we have not.

Rep. Willard: Well, let me just ask you, do you feel that a bill would be necessary, or that it could be incorporated in a standard validating act which are passed each Session?

Mr. Gallivan: It should be, and it's contemplated this year, or will be to take care of the past, because I know three subdivisions where the people are stymied. It's a fantastic situation, the whole Bar is scared to death of it. The only way you're going to do it is by giving the planning commission the power that it should have had all the time.

Mr. Elmer Lowden: May I ask one question? Just as a matter of information. I am very familiar with that 5 year limitation on zoning violations, but we had a little trouble with a shorter period in the 1967 or 1969 Session. Do you recall what the trouble was, I think we aimed for a 2 year

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statute rather than....

Mr. Gallivan: I think you perhaps are referring to the bill that was passed in '69 dealing with violation of private land use restrictions, which was a two year period, and that was passed by both the Senate and the House in the last Session. It was vetoed by the Governor. There is another bill in one year, reducing that to one year on the theory that the Governor at that time had very poor advice and didn't realize the implications of the necessity of making marketable those houses that are rendered unmarketable because of violations, but that was a two year period.

Mr. Lowden: Well, the bills are similar and I may have....

Mr. Gallivan: Yes, they are, but one is public, one is zoning, and the other is private land use restrictions, right.

Rep. Willard: Thank you. Doris McLellan?

Doris McLellan: Good morning, I'm the Planning Administrator for the Town of Stratford. As you can note from what I signed there, I am in favor of quite a few of the bills. I guess they were all put in by an interim committee. There are a lot of questions I have on them. I would like to see you standardize all the sections regarding when a petition is filed, you have 60 days to hear it. I don't know how you came up with 65 days, but if you're going to fix 65 days through all the sections, which would regard planning and zoning, board of zoning appeals, and the Section 14-55, 14-322, and 21-19, I believe it is.. 21-17 regarding motor vehicle hearings. If you're going to give a petitioner 65 days to, or the board or commission 65 days in which to hear the petition, you're giving them 65 days to act on it and 65 days extension, I think all the sections that are involved in it should all be standardized. There are a lot of different things in the regulations right now, one is you have 90 days to hear it, 60 days to act on it; another one has a reasonable time to hear it; another one is to grant a reasonable extension. Under motor vehicle, you have to have advertise it three times at least seven days before instead of the way the other ones are, no more than 15 or less than 10, and not less than 2. I am also in favor of the chairman appointing alternates. I could tell you if you want to know exactly which section I am referring to, but there are a couple of sections that have to do with the chairman appointing alternates. At this point, its pretty difficult if a disqualified member isn't present...well, thats disqualification, but if a member is absent, the chairman should be able to appoint because its pretty difficult to get a commission or a board member to put it in writing if they are not there,