

PA13-289

HB6477

House	8276-8282	7
Insurance	1078-1086, 1131-1135, 1140-1142	17
Senate	5271, 5400-5401	3
		27

H – 1173

**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2013**

**VOL.56
PART 24
7971 – 8345**

Necessary for Passage	71
Those voting Yea	133
Those voting Nay	7
Absent and Not Voting	10

DEPUTY SPEAKER SAYERS:

The bill as amended passes.

Will the Clerk please call Calendar Number 162.

THE CLERK:

Yes, Madam Speaker, on Page 39 of today's Calendar, Calendar Number 162, Favorable Report of the Joint Standing Committee on Judiciary, House Bill 6477, AN ACT CONCERNING THE STATUTORY LIEN FOR ASSESSMENTS ON CONDOMINIUM UNITS.

DEPUTY SPEAKER SAYERS:

Representative Albis.

REP. ALBIS (99th):

Good evening, Madam Speaker. Madam Speaker, I move for acceptance of the Joint Committee's Favorable Report and passage of the bill.

DEPUTY SPEAKER SAYERS:

The question is the joint -- acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark further, sir?

REP. ALBIS (99th):

Yes, Madam Speaker, thank you. Madam Speaker, the Clerk is in possession of an amendment, LCO Number 8245. I would ask that the Clerk please call the amendment, and I be granted leave of the Chamber to summarize.

DEPUTY SPEAKER SAYERS:

Will the Clerk please call LCO Number 8245, and it shall be designated as House Amendment Schedule "A".

THE CLERK:

House Amendment Schedule "A", LCO 8245 as introduced by Representative Fox, Albis and Buck-Taylor.

DEPUTY SPEAKER SAYERS:

The gentleman has seeked leave of the Chamber to summarize. Is there any objection to summarization? Is there any objection? Seeing no objective, Representative Albis you may proceed with summarization.

REP. ALBIS (99th):

Thank you, Madam Speaker. Madam Speaker, this is a strike-all amendment that makes several changes to the Common Interest Ownership Act, and the changes are geared toward protecting unit owners from various --

various violations that have occurred in the past that -- that we've been reported to in the Judiciary Committee.

And I would be remiss if I didn't thank Representative Buck-Taylor and Representative O'Neill for their help and -- and their input throughout this process. It's -- it's been a collaborative process, and I do thank them for that.

Madam Speaker, I move adoption of the amendment.

DEPUTY SPEAKER SAYERS:

The question before the Chamber is adoption of House Amendment Schedule "A". Will you remark further on the amendment that is before us? Will you remark? Representative Albis.

REP. ALBIS (99th):

Thank you, Madam Speaker. Just for the purposes of legislative intent, I'd like to clarify a couple of the sections of the amendment. Section 1 adds a knowing and material violation of the Common Interest Ownership Act and the Condominium Act as grounds for revocation of an association manager license.

Madam Speaker, when it refers to a knowing and material violation, I would surmise that that means a substantial violation of CIOA or the Condo Act,

meaning it's -- it's an act committed by an association manager when -- when they knowingly and maliciously try to infringe upon the rights of unit owners, such as rigging the vote in an election where the unit owners are to cast votes, or holding meetings in secrecy that are illegal meetings that are intended to lower the transparency among the association. So, Madam Speaker, that -- that is the clarification for the words "knowing and material violation."

And also, Madam Speaker, Sections 5 and 6 deal with a particular case that we saw in -- in Stamford, Connecticut where an association -- a condo association was cited for health code violations in the City of Stamford.

Madam Speaker, when the board and board president tried to address these -- these violations, they proposed a \$4 million special assessment to the condo association. That assessment went up to the unit owners for a vote, and the unit owners by a majority vote rejected that special assessment. So there were a -- a minority of the unit owners that were very upset by this. They in turn filed a lawsuit against the board president. The -- the lawsuit went to trial, and my understanding is the prosecutor

unilaterally pressed criminal charges against the board president. So in this case, the -- the board president did have criminal charges, and the trial went on. The association ended up paying for \$40,000 in legal fees before the case was ultimately thrown out, and Sections 5 and 6 are -- are in this amendment to ensure that that does not happen again, that a board member who -- any member of the board, when the board attempts to remedy a situation where there are violations of building codes, health codes, et cetera, and the vote is rejected by a special assessment by the unit owners, that the -- those board members and the board president cannot be held criminally liable.

So Madam Speaker I hope that helps for legislative intent and thank you very much, Madam Speaker.

DEPUTY SPEAKER SAYERS:

Representative Buck-Taylor of the 67th.

REP. BUCK-TAYLOR (67th):

Thank you, Madam Speaker. I rise in support of this amendment. I would like to thank Representative Albis and Representative Fox for giving me this opportunity to reach across the aisle and work with them on this amendment. I believe that the changes

and addition made through this amendment address some issues that needed attention, provide clarification on some of the language, and as a whole make the bill into a better bill. So once again I'd like to thank them for this opportunity, and I ask everyone to support this amendment. Thank you.

DEPUTY SPEAKER SAYERS:

Will you remark? Will you remark further on the amendment that is before us? If -- if not, I will try your minds. All those in favor, please signify by saying Aye.

REPRESENTATITVES:

Aye.

DEPUTY SPEAKER SAYERS:

Those opposed, Nay. The Ayes have it. The
amendment is adopted.

Will you remark further on the bill as amended?
Will you remark further on the bill as amended? If not, will staff and guests please come to the Well of the House? Members take their seats, and the machine will be open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will

Members please report to the Chamber immediately?

DEPUTY SPEAKER SAYERS:

Have all the Members voted? Have all the Members voted? Please check the board to see that your vote has been properly cast. If all the Members have voted, then the machine will be locked and the clerk will take a tally.

A VOICE:

138, 0, 12

DEPUTY SPEAKER SAYERS:

The Clerk will announce the tally.

THE CLERK:

House Bill 6477, as amended by House "A".

Total Number Voting 138

Necessary for Passage 70

Those voting Yea 138

Those voting Nay 0

Absent and Not Voting 12

DEPUTY SPEAKER SAYERS:

The bill as amended passes.

Will the Clerk please call Calendar Number 654?

THE CLERK:

Yes, Madam Speaker. On Page 35 of today's

Calendar, Calendar Number 654, Favorable Report of the

SB1012

**CONNECTICUT
GENERAL ASSEMBLY
SENATE**

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And also Calendar -- Calendar page 13, Calendar 676,
House Bill Number 6374.

In addition, Madam President, Calendar page 21 -- on a
disagreeing action, Calendar page 21, Calendar 153,
Senate Bill Number 928, should also be marked go.

In addition, Madam President, Calendar page 14,
Calendar 688, House Bill Number 6477, moved to place
that item on the Consent Calendar.

THE CHAIR:

Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Madam President.

And Calendar page 14, Calendar 693, House Bill Number
6546 is marked go.

Thank you, Madam President.

THE CHAIR:

Thank you.

Mr. Clerk.

THE CLERK:

On page 21, Calendar 630, Substitute for House Joint
Resolution Number 45, RESOLUTION CONCERNING THE
DISPOSITION OF CERTAIN CLAIMS AGAINST THE STATE
PURSUANT TO CHAPTER 53 OF THE GENERAL STATUTES,
favorable report of the Committee on Judiciary.

THE CHAIR:

Good afternoon, Senator Doyle.

SENATOR DOYLE:

Good afternoon, Madam President.

THE CLERK:

-- House Bill 6685.

On page 4, Calendar 467, House Bill 6514.

On page 7, Calendar 57, House Bill 6515.

And on page 12, Calendar 669, House Bill 6610.

On page 13, Calendar 679, House Bill 5423.

On page 14, Calendar 688, House Bill 6477.

On page 15, Calendar 698, House Bill 6518; Calendar
699, House Bill 6389.

And on page 21, Calendar 630, House Joint Resolution
Number 45.

THE CHAIR:

Okay. Mr. Clerk, will you please call for roll call
vote. The machine will be open for Consent Calendar
1.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators return to the chamber please. Immediate roll
call on Consent Calendar Number 1 has been ordered in
the Senate.

THE CHAIR:

All members have voted? All members have voted, the
machine will be closed.

Mr. Clerk, will you call the tally.

THE CLERK:

On Consent Calendar Number 1

Total Number Voting	35
Those voting Yea	35

Those voting Nay 0

Those absent and not voting 1

THE CHAIR:

The consent Calendar is passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, some additional items to mark go at this time.

THE CHAIR:

Please proceed, sir.

SENATOR LOONEY:

Thank you, Madam President.

On Calendar page 4, Calendar 464, House Bill 5601 should be marked go.

Also Calendar page 4, Calendar 465, House Bill Number 6630 should be marked go.

Calendar page 10, Calendar 644, House Bill Number 6363 should be marked go.

Also, Madam President, Calendar page 8, Calendar 601, House Bill Number 6490 should be marked go.

And, Madam President, Calendar page 18, Calendar 239, Senate Bill Number 190 should be marked go at this time.

Thank you, Madam President.

THE CHAIR:

Thank you.

**STANDING
COMMITTEE
HEARINGS**

**INSURANCE AND
REAL ESTATE
PART 4
925 - 1225**

2013

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aac/gbr INSURANCE AND REAL ESTATE
COMMITTEE

March 5, 2013

6:00 P.M.

NATHAN HALE SCHOOL, NEW HAVEN, CONNECTICUT

REP. MEGNA: Thank you Representative. Representative Yaccarino.

REPRESNETATIVE YACCARINO: Thank you Mr. Chair and thank you Jim for your testimony.

I just have a question. On the mediation panel, how many members would it consist of? I don't really see -- I didn't really see it, I don't have a copy of the language in front of me, but I believe the bill says the Insurance Commissioner has the authority to set regulations, so I don't know if that is the right answer, but I believe that is not entirely set out in the bill.

I support it, I was just curious how many would be -- five members, seven members, three members?

Thank you.

REP. ALBIS: I believe the intent is for one mediator in --

REP. YACCARINO: That might cause -- I'd recommend maybe three but you know better than me with insurance.

REP. MEGNA: Thank you, sir. Any other questions? Thank you Representative.

Senator Fasano.

SENATOR FASANO: State Senator Len Fasano, 34th District of Wallingford, North Haven, East Haven and part of Durham.

Thank you for having it in sort of my neighborhood, if I may, by extension. I apologize for being casual.

I'm here to talk about Bill 6477, this is the Condominium Bill, where you guys have a bill out

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COMMITTEE

March 5, 2013
6:00 P.M.

NATHAN HALE SCHOOL, NEW HAVEN, CONNECTICUT

ALDERMAN SAL DACOLA: Thank you for all coming and to listen. There is a big issue out here in Morris Cove --

REP. MEGNA: Sal, just identify yourself first, please.

ALDERMAN SAL DACOLA: Okay, Sal DaCola, 120 Townsend Avenue, New Haven, Connecticut. I should know that, that's the policy everywhere.

A majority of my residents here deal with this all the time. The insurance companies telling them that they wont insure them for reasons of many things around here because we're in a flood zone too, but we're not here about that.

I have people that are in their 80's and 90's telling me about insurance companies calling them up and denying their insurance now because they need to have storm shutters on, or many other things. They've been here for three generations; most of the families here have been inheriting these houses. This is an old neighborhood. The majority of the people that live in Morris Cove are 55 to 100 years old and they worked very hard for their homes, and they pay their taxes here, they pay their insurance, they just are under a lot of stress sometimes when the insurance companies deny them. I had a woman call me the other day that was trying to close on a house and the insurance companies wouldn't insure her so she couldn't get the closing because she didn't have storm shutters on her house, and the house is only two blocks away from here. These are the things that continue to happen in our neighborhood due to the wear of the topography of the land to the water and everything else. So, this is what we deal with continuously out here. We get denied. Many families.

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aac/gbr INSURANCE AND REAL ESTATE COMMITTEE
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6:00 P.M.

NATHAN HALE SCHOOL, NEW HAVEN, CONNECTICUT

REP. MEGNA: Thank you very much. Actually, you had a petition that you had sent to the Department of Insurance with how many signatures were on that?

ALDERMAN SAL DACOLA: Way over 200 signatures.

REP. MEGNA: Yeah, thank you for that. Are there any questions of the Alderman?

Thank you very much, Sal.

George Bradner from the Department of Insurance.

You're going to be testifying on three different bills, I think, George.

GEORGE BRADNER: Yes.

Senator Crisco, Representative Megna and Members of the Insurance and Real Estate Committee, the Insurance Department appreciates the opportunity to provide testimony on H.B. 6549 AN ACT ESTABLISHING MEDIATION PROGRAM FOR CERTAIN INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHE EVENT, H.B. 6378, AN ACT CONCERNING CHANGES TO PROPERTY AND CASUALTY INSURANCE AND RELATED STATUTES, and H.B. 6380, AN ACT CONCERNING CHANGES TO THE PROPERTY AND CASUALTY INSURANCE POLICIES AND HOME IMPROVEMENT CONTRACTORS.

My name is George Bradner, I'm the Property Casualty director for the State of Connecticut Insurance Department.

House Bill 6549 issues a formal mechanism for non-adversarial mediation of disputes between the insured homeowner and an insurer following a major catastrophe. The intent of this legislation is for it to apply to the loss or damage to real or personal property, other than damage to motor vehicle. This is the approach

HB6379

NATHAN HALE SCHOOL, NEW HAVEN, CONNECTICUT

issue in contents, just for this reason. Because if you had a dining room set and one chair broke, that whole dining room set is worth less. They'll just replace it with a metal chair. You can't do that. And they put that in for the contents. We need something like that for the building that says you can't do this to these people.

REP. MEGNA: What you're saying is, in the contents language, it kind of talks about a pair or set in matching but when it comes to building damage, it could actually do the opposite or say the opposite.

TODD MOLER: It does do the opposite. There are people who are talking about these endorsements that are being written that say, you know what, we're not matching anymore. And it doesn't even say anymore. It just says, "We don't owe to match." If they that, at least it would indicate that, you know what, you're getting ripped off on this policy, but they don't even do that. So, its just, you know, it's really, you know, even in contents they recognize that matching is an issue and it definitely pertains to its value. But on a building, which you insure for its value, they're going to pretend that this isn't an issue, and that it's just cosmetic and they minimize the effects of what happens when you don't properly repair a house. People are losing the values.

REP. MEGNA: Okay, thank you very much. Are there any questions of Mr. Moler? No. Thank you, Todd.

Now we're going to move on to House Bill 6477.
Kristie Leff.

KRISTIE LEFF: Good evening, thanks for this opportunity. My name is Kristie Leff, I'm an attorney at Bender, Anderson and Barba. We

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6:00 P.M.

NATHAN HALE SCHOOL, NEW HAVEN, CONNECTICUT

represent condominium associations throughout the state. I want to follow up on some of the comments made by Senator Fasano earlier this evening. I was involved in the court decision he referenced earlier. The decision is on appeal. As best I can tell, what that decision essentially says is that a condo association can't assert a priority lien against a bank when the association brings a second condominium foreclosure during the pendency of a simultaneously pending bank foreclosure action.

The effect of this is that condominium associations will have to wait for the bank foreclosure action to end before it can collect its priority lien and that could mean possibly two years between the mandatory mediation program, and paperwork issues that the banks have to now work out.

So, meanwhile, the condominium association is left with not collecting any fees on that particular unit and depending on the size of the association, there could be multiple units in foreclosure at any one time. That would mean the associations budget is not completely funded, the association has to either raise the common fees, look to other unit owners to make up the difference, it creates a domino effect where then once the condo charges are raised, or perhaps the association has to cut back on maintenance of the association and needed repairs of the association, what it will do is devalue these units and that's certainly not an effective way to have a rebound of our housing market and that can't have been the intent of the statute. So, I would encourage this Committee -- first of all I'm encouraged that you're even looking at it. I'm glad this is on your radar. I'd encourage this Committee to work with, I think the

FTR

TESTIMONY IN SUPPORT OF GENERAL ASSEMBLY BILL No. 6477 - AN ACT
CONCERNING THE STATUTORY LIEN FOR ASSESSMENTS ON A
CONDOMINIUM UNIT

MARCH 4, 2013

Good evening Senator Crisco, Representative Megna, Senator Hartley, Representative Wright and members of the Insurance and Real Estate Committee. Thank you for the opportunity to provide testimony on behalf of Imagineers, LLC ("Imagineers").

I am Karl Kuegler, Jr. of Imagineers, LLC where I serve as the Director of Property Management for our common interest community management division. From our offices located in Hartford and Seymour, we serve about 178 Connecticut common interest communities comprising about 17,000 homes. Imagineers is registered with the Department of Consumer Protection as a Community Association Manager holding registration number 0001 and has been serving Connecticut common interest communities for 32 years. I have over 23 years experience in common interest community management and hold a Certified Manager of Community Associations designation from the National Board of Certification for Community Association Managers. Imagineers is a member of the Connecticut Chapter of Community Associations Institute. I serve on the organization's Legislative Action Committee and chair the organization's annual state educational conference.

Imagineers is in favor of the bill, but would like additional language added to address other deficiencies in the current statute. I would also like to mention that the Judiciary Committee is entertaining a bill this session regarding the statutory lien for assessments on condominium units. Listed below is summary of thoughts and additional concerns with the current statute:

INCREASE IN THE PRIORITY LIEN FROM 6 TO 12 MONTHS:

Section 1 (b) of 6477 provides for the increase in the priority lien amount from its current amount of 6 to 12 months immediately preceding institution of an action to enforce the association's lien or a security interest. We certainly support the increase from 6 to 12 months. We understand the increase would not pose an issue or restrict mortgage options for owners financing properties in common interest communities. Connecticut is in compliance with current Fannie Mae Selling Guidelines. Section B4-2.1-06 of the guidelines dated August 21, 2012 indicates:

Fannie Mae allows the greater of six months of regular common expense assessments, or the maximum amount permitted under applicable state law, to have limited priority over Fannie Mae's mortgage lien if the condo or PUD project is located in a jurisdiction that has enacted

- the Uniform Condo Act;*
- the Uniform Common Interest Ownership Act, or*
- other similar statutes that provide for regular common expense assessments, as reflected by the project's operating budget, to have such priority over first mortgage liens.*

Connecticut common interest communities routinely are unable to collect fees as a result of extended foreclosure efforts. Rarely if ever do foreclosure efforts resolve within the 6 months. Ultimately the other homeowners of the community that are fulfilling their obligations in paying fees to the association need to make up the difference through increased fees or loss services. Common interest communities budget income only great enough to offset expenses. Associations

are not to make a profit. When the income budgeted is not received, the association has no option but to increase fees or cut services to their association. An increase in the statutory lien would help reduce the negative impact of foreclosures on associations and their members.

CURRENT DEFICIENCIES IN THE STATUTE NOT ADDRESSED

A separate issue pertaining to this statute has become a major and potentially devastating issue for common interest communities in our state. Some banks are employing a legal strategy during foreclosure action that negatively impacts community associations and will have a significant negative impact on community associations if it were to continue.

Historically, when banks/mortgage companies brought action to foreclose on a unit, Connecticut state law ensured that a portion of the association's lien is not foreclosed out by the mortgage foreclosure. This has been an important protection for associations because it ensured that if a bank obtained foreclosure judgment, the bank would become the new owner of the unit and still be subject to the priority portion of the association's lien. This protection provided under a "priority lien" guaranteed that the bank, as the new owner, would be required to pay a minimum of six months worth of common fees plus reasonable court costs and attorney fees (as determined by the court) and then pay the monthly common charges to the association from the date it took title to the unit going forward.

In at least two cases, the Connecticut courts have agreed with the bank's position to eliminate its additional financial responsibility to the association. Apparently, the legal strategy for the bank has been to pay the six-month priority lien without taking title to the unit and then seek the court's interpretation that it applies only once during the lawsuit or even the lifetime of the mortgage. The bank then just sits back and lets the foreclosure sit uncompleted, often for many years. In the meantime, the association is obligated to provide services to the unit as it does to all other units. In addition to the landscaping, snow removal and other maintenance services, some associations are also obligated to provide heat, water and other services to the unit if provided to other units as part of its responsibility. It is suspected that the delays could be a result of the sheer size of the banks, the disorganization that is resulted as the banks attempted to adjust to the many mergers and acquisitions that took place at the height of the mortgage meltdown, improper practices of the people who made the loans and the way in which the loans were administered, and quite possibly, that some of the banks have simply determined that there is no point in taking title to condominium units and paying their share of the cost of maintaining the condominiums, unless the bank can dispose of the condominium unit almost immediately.

Even if the defaulting unit owner eventually works out a deal with the bank to reinstate the mortgage, some of these banks have asserted that the mortgage continues to trump priority lien going forward if the owner becomes delinquent again with the payment of fees to the association. The association could start its own foreclosure, but under the bank's theory, it would have to take title to the unit and also repay the mortgage on it, which would often cost more than the unit is worth.

If the Connecticut General Assembly does not make it clear that the priority lien is meant to protect associations and their unit owners, Connecticut associations will be severely

impacted. Every time a unit owner abandons a unit, or just stops paying their mortgage and common charges, Connecticut associations and their homeowners will be obligated to carry the defaulting unit and will in effect be subsidizing the bank's asset. In this instance everyone else in the community needs to make up the difference for the lost income resulting from the bank's delay in finalizing the foreclosure effort while subsidizing the bank by maintaining the bank's asset with no obligation of the bank to pay for the expense. The extra funds necessary to keep the association financially solvent come directly from the other homeowners. There are no other sources of income to save the day for our common interest communities. With increasing expenses due to aging infrastructure and economically driven factors, associations are already facing financial challenges and hardships not experienced previously. The added burden of subsidizing big banks as they take advantage of associations may be too great for some associations to survive.