

Regulations of Connecticut State Agencies

TITLE 47. Land & Land Titles

Agency

Department of Environmental Protection

Subject

Organization and Rules of Practice of the Indian Affairs Council, Membership in Connecticut Indian Tribes, and Eligibility to Reside on Indian Reservations

Inclusive Sections

§§ 47-59b-1—47-59b-30

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ARTICLE I

DESCRIPTION OF ORGANIZATION

Part I

Introduction

Sec. 47-59b-1. Creation and authority

The Council was established by, and derives its authority from Sections 47-59a to 47-66, Connecticut General Statutes, revised to January, 1975, as amended by P.A. 75-129.

(Effective June 1, 1976)

Sec. 47-59b-2. Location of principal office

The principal office of the Council is located at Hartford, Connecticut. All communications should be addressed to the Connecticut Indian Affairs Council, State Office Building, Room 248, 165 Capitol Avenue, Hartford, Connecticut 06115, unless otherwise specifically directed.

(Effective June 1, 1976)

Sec. 47-59b-3. General duties and responsibilities

The Council, in conjunction with the Commissioner of Environmental Protection, is charged with administering legislation concerning Connecticut Indians and their reservations. The Council is specifically charged with the following duties: To provide services to the Indian reservation community and formulate programs suitable to its needs; to determine the qualifications of individuals entitled to be designated as Indians for the purposes of administering Sections 47-59a to 47-66 of the General Statutes, as amended by P.A. 75-129, and to decide who is eligible to reside on reservation lands pursuant to the said Statutes; to promulgate hunting and fishing regulations applicable to the reservations; to advise the Commissioner of Environmental Protection concerning the general health, safety, and well-being of persons residing on reservations; to advise the Commissioner of Environmental Protection concerning the care and management of reservation lands and buildings thereon; to advise the Commissioner of Environmental Protection concerning the care and control of tribal funds; in conjunction with the Commissioner of Environmental Protection to survey and map the reservations.

(Effective June 1, 1976)

Sec. 47-59b-4. Composition of council

The Council consists of one representative of each of the following Indian Tribes:

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Scalaghticoke, Eastern Pequot, Western Pequot, Mohegan and Golden Hill; and three persons appointed by the Governor who are electors within the State but not elective or appointive officials of the State or any of its political subdivisions and are not of Indian lineage. Tribal representatives are appointed by the respective tribes, which may also designate an alternate to observe Council meetings and act in the absence of the tribal representative. All appointments are for terms of three years, beginning October 1, 1973, except that the first representative from the Golden Hill shall serve from the date of his appointment to September 30, 1976. Tribal representatives may be recalled at any time by their respective appointing authorities, with or without cause.

(Effective June 1, 1976)

Sec. 47-59b-5. Seating of representatives

Each tribal organization seeking representation on the Council shall file a description of the organization, its membership, and the procedure for selecting a representative to the Council. Prior to being seated, the tribal representative shall file with the Council a certificate of the appropriate tribal official stating that the representative was duly selected in accordance with tribal practice and usage. If satisfied that the tribal organization is representative of the tribe, and that the tribe's representative to the Council has been properly selected in compliance with the practice and usage of the tribe, the Council shall seat the tribal representative.

(Effective June 1, 1976)

Sec. 47-59b-6. Same; challenges

At the time a representative of a tribal organization requests to be seated at the Council, or any time thereafter, a member of the tribe for which the representative was selected, or any person aggrieved by an action of this Council, may challenge the authority of the tribal organization seeking to be seated to represent the tribe, or the validity of the process by which the representative of the tribe was selected. Upon receipt of such a challenge, the Council shall set a date for a hearing to be held and conducted in the same manner as hearings on contested applications for recognition of Indian status under these regulations. No representative shall take part in proceedings of the Council while under challenge. The burden of proof shall be on the challenger. If the Council determines that the tribal organization represents the tribe and that the challenged representative has been properly selected by the tribal organization, the Council will not entertain further challenges to the tribal organization or its representative except on a showing of substantial evidence different from that heard by the Council at the first challenge hearing. The burden shall be upon the challenging party to show, by affidavit or document any evidence, that new evidence warrants a hearing on any subsequent challenge.

The Commissioner of Environmental Protection may, and in the event that more than one member are challenged simultaneously shall, designate one or more additional persons, who shall be Indians within the meaning of Sections 47-59a to 47-66 of the General Statutes,

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as amended, and not members of the tribal organization under challenge, to sit on the Council for purposes of hearing and determining the challenges. The panel shall consist of not less than seven persons, including the Council members whose credentials have not been challenged.

(Effective June 1, 1976)

Part II

Public Information

Sec. 47-59b-7. Policy

The policy of the Council is to make available for public inspection all files, records, documents and other materials within its possession, unless prohibited by law.

Geneological information shall be available only to parties in contested cases and when required for adjudication of a case before the Council.

(Effective June 1, 1976)

Sec. 47-59b-8. Complaints and requests for information

Complaints and requests for information should be addressed to the Council, at the address set forth in 47-59b-2 of these regulations.

(Effective June 1, 1976)

ARTICLE II

RULES OF PRACTICE

Part I

General Provisions

Sec. 47-59b-9. Procedure governed

These rules govern practice and procedure before the Council under the applicable laws of the State of Connecticut and except where by statute otherwise provided. Decisions of the Commissioner of Environmental Protection, acting on the advice of the Council as required by Sections 47-59a to 47-66 of the General Statutes, as amended, shall be governed by the regulations applicable to decisions of the Commissioner.

(Effective June 1, 1976)

Sec. 47-59b-10. Definitions

- (a) "Council" means Connecticut Indian Affairs Council.
- (b) "Tribe," except where otherwise indicated, means the Schaghticoke, Eastern Pequot,

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Western Pequot, Mohegan, or Golden Hill Tribes of Indians.

(Effective June 1, 1976)

Sec. 47-59b-11. Procedure for issuance, amendment or repeal of a regulation

(a) Proceedings for the issuance, amendment, or repeal of regulation may be commenced by the Council on its own initiative or pursuant to a petition submitted by an interested person.

(b) Notice of the proposed issuance, amendment, or repeal of a regulation will appear in the Connecticut Law Journal at least twenty days prior to the proposed action. The notice will contain: (i) a statement of the purpose of the proposed action; (ii) a statement of the time, date and place of the public hearing or other opportunity for the presentation of views; (iii) reference to the statutory authority under which the Council is acting; and (iv) a statement of the terms or substance of the intended action.

(c) Adequate publicity will be provided by the Council to assure that all interested parties have notice of the time, date and place of the public hearing or other opportunity for the presentation of views. The purpose is to afford an opportunity for all interested parties to participate in the proceedings through the submission of written or oral data, views, arguments, or suggestions.

(d) The action of the Council concerning issuance, amendment or repeal of regulations will be forwarded to the Commissioner for adoption, and then to the Attorney General and to the legislative Review Committee of the General Assembly for approval, as required under Sections 4-169 and 4-170 of the General Statutes.

(e) The new regulation or the amendment or repeal of an existing regulation will become final following approval by the Attorney General and the Legislative Review Committee and certification thereof to the Secretary of State.

(f) When the Council finds that an imminent peril to the public health, safety, or welfare so requires, it may adopt emergency regulations, as provided in Section 4-168 (b) of the General Statutes.

(Effective June 1, 1976)

Sec. 47-59b-12. Computation of time

Computation of any period of time referred to in these rules begins with the first day following that on which the act which initiates such period of time occurs. The last day of the period so computed is to be included unless it is a day on which the office of the Council is closed, in which event the period shall run until the end of the following business day.

(Effective June 1, 1976)

Sec. 47-59b-13. Extensions of time

At the discretion of the Council, for good cause shown, any time limit prescribed or allowed by these rules may be extended insofar as such extension is not precluded by statute. All requests for extension should be made before the expiration of the period originally

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prescribed or as previously extended. The Council shall notify all parties of the department's action upon such motion.

(Effective June 1, 1976)

Sec. 47-59b-14. Consolidation

Proceedings involving related questions of law or fact may be consolidated at the discretion of the Council.

(Effective June 1, 1976)

Sec. 47-59b-15. Return for incompleteness

Any application or petition may be rejected by the Council if it is incomplete or otherwise inadequate to permit processing or disposition thereof. Action under this section is without prejudice and is not a final decision by the Council. Nothing in this section shall restrict the Council from requiring additional information from an applicant or petitioner if his application or petition is accepted

(Effective June 1, 1976)

Part II

Formal Requirements

Sec. 47-59b-16. Office

The principal offices of the Council is in the State Office Building, Room 248, 165 Capitol Avenue, Hartford, Connecticut 06115. The offices of the Council are open from 8:30 a.m. to 4:30 p.m. each weekday except Saturdays, Sundays and legal holidays.

(Effective June 1, 1976)

Sec. 47-59b-17. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, applications and any other documents governed by these rules, shall be deemed to have been filed or received on the date on which they are issued or received by the Council at its principal offices.

(Effective June 1, 1976)

Sec. 47-59b-18. Identification of communications

Communications should embrace only one matter, should contain the name and address of the communicator and the subject of the communication.

(Effective June 1, 1976)

Sec. 47-59b-19. Signatures

Every application, notice, motion, petition, complaint, brief and memorandum shall be

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signed by the filing person or by one or more attorneys in their individual names on behalf of the filing person.

(Effective June 1, 1976)

Sec. 47-59b-20. Formal requirements as to documents and other papers filed in proceedings

(a) **Copies.** Except as may be otherwise required by these rules or by any other rules or regulations of the Council or ordered or expressly requested by the Council, at the time motions, petitions, applications, documents or other papers are filed with the Council, there shall be furnished to the Council an original of such papers. In addition to the original there shall also be filed one copy unless a greater or lesser number of copies is expressly requested by the Council.

(b) **Form.** Except for such forms as may from time to time be provided by the council and used where appropriate, motions, petitions, applications, documents or other papers filed for the purpose of proceeding before the Council shall be printed or typewritten and, where possible, on paper cut or folded to either letter or legal size, 8 to 8 ½ inches wide. The impression shall be on only one side of the papers, unless printed, and shall be double spaced, except that quotations in excess of five (5) typewritten lines shall be single spaced and indented. Mimeographed, multigraphed, photoduplicated or the like copies will be accepted as typewritten, provided all copies are clear and permanently legible.

(c) **Filing.** All papers relating to matters requiring action by the Council shall be filed with the Council, State Office Building, Room 248, 165 Capitol Avenue, Hartford, Connecticut 06115.

(Effective June 1, 1976)

ARTICLE III

MEMBERSHIP IN TRIBES

Sec. 47-59b-21. Standards for determining membership

Membership determinations shall be made in accordance with the practice and usage of the tribe in which membership is claimed, and except as otherwise provided in these regulations persons whose names appear on the tribal rolls of the following tribes shall be considered Indians for purposes of Sections 47-59a to 47-66 of the General Statutes, as amended.

- Eastern Pequot
- Western Pequot
- Schaghticoke
- Golden Hill
- Mohegan

Tribal representatives shall file certified copies of the following documents with the Council:

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- (1) The official membership roll of the Tribe;
- (2) The practice and usage of the tribe concerning membership, including a description of procedures and the kinds of evidence admissible to prove membership in the Tribe.

These documents shall be kept on file in the office of the Council and shall be made available to persons seeking recognition as Indians under Sections 47-59a to 47-66 of the General Statutes, as amended.

(Effective June 1, 1976)

Sec. 47-59b-22. Application for recognition of Indian status: contents

All applications for recognition of Indian status under the Statute shall set forth the tribe in which the applicant claims membership. If an application is supported by affidavits, the same shall be made under oath and penalty of perjury, shall be on personal knowledge, shall set forth the qualifications and competency of the affiant to testify on matters of tribal membership, and shall fairly summarize the testimony which the affiant is prepared to give in support of the application.

(Effective June 1, 1976)

Sec. 47-59b-23. Same: decision of tribe: certification by council

The application shall be referred to the appropriate tribe for consideration in accordance with the standards and procedures on file with the Council. If the applicant appears and testifies before the tribe in support of his application, or if witnesses are heard for or against the application, the tribe shall make a tape recording of the proceedings before it. The decision of the tribe concerning application for membership shall be in writing, shall set forth the reasons therefore, and shall be lodged with the Council. Upon receipt of the tribe's decision the Council shall promptly notify the applicant, supply him with a copy of the tribe's determination and advise him that unless the decision of the tribe is protested within thirty days from receipt of the notice, the decision of the tribe shall be certified by the Council. Upon certification, the decision of the tribe shall be final and binding upon all parties.

(Effective June 1, 1976)

Sec. 47-59b-24. Same: objection to certification

Any person who would be aggrieved by certification of a decision of a tribe respecting his membership may protest the tribe's decision to the Council and request a hearing to be scheduled for the next regular meeting of the Council, or at such time as shall be stipulated to by the applicant and the tribal council whose decision is protested. The Council shall promptly notify the tribe, which shall certify the record of the proceedings before it. The record shall consist of the decision of the tribe, all affidavits and documentary evidence submitted in support of the application, and a tape recording of the proceedings, if any before the tribe.

(Effective June 1, 1976)

Sec. 47-59b-25. Certification hearing; procedure

At the hearing, both the applicant and the tribe whose decision is protested may be represented by counsel employed at their own expense. The Chairman of the Council shall preside at the hearing unless the Chairman is a member of the tribe whose decision is protested, in which case the Vice-Chairman shall preside. Members of the Council may ask questions of the parties and may examine all evidence. A member of the tribe whose decision is challenged may examine the parties and the evidence, but shall disqualify himself from voting.

(Effective June 1, 1976)

Sec. 47-59b-26. Same; scope of review

Consideration by the Council shall be based on the record submitted to the tribe, and evidence not submitted to the tribe shall not be considered by the Council, except that if the decision is challenged on the ground that the person or persons making the membership determination does not represent the tribe, the proceeding shall be treated in the same manner as a challenge to the tribal representative under 47-59b-6 of these regulations and the Council may hear all evidence relevant to the authority of the tribal organization to represent the tribe.

For good cause shown, the Council may remand an application to the tribe for consideration of new evidence.

(Effective June 1, 1976)

Sec. 47-59b-27. Same; burden of proof

The burden shall be upon the applicant to establish by a preponderance of the evidence that he is entitled to membership in the tribe under the practice and usage of the tribe. Upon such a showing the Council, by majority vote, shall direct the tribe to add the applicant's name to the rolls of the tribe.

If the applicant establishes by a preponderance of the evidence that the tribe excluded evidence, or failed to follow appropriate procedures, the dispute shall be remanded to the tribe for further proceedings consistent with the findings of the Council.

(Effective June 1, 1976)

Sec. 47-59b-28. Certification in the absence of protest

Any member of the Council may challenge any decision made by a tribe concerning membership. Upon such a challenge, the Council shall designate one or more of its members to act as a committee to examine the record of the proceedings before the tribe and report back to the Council. The Council shall act upon the recommendation of the committee, and may either certify the decision of the tribe or set a date for a hearing to be held in accordance with these regulations.

(Effective June 1, 1976)

ELIGIBILITY TO RESIDE ON INDIAN RESERVATIONS

Sec. 47-59b-29. Residence on reservation

Any member of the Eastern Pequot, Western Pequot, Mohegan Schaghticoke or Golden Hill Tribe is eligible to reside on the reservation assigned to the use of his respective tribe. The tribe to whom a reservation is assigned shall decide which of its members may reside on the reservation of the tribe, and the decision of the tribe shall not be reviewable by the Council.

(Effective June 1, 1976)

Sec. 47-59b-30. Intrusion by non-members

No person who is not a member or the spouse or child of a member of a tribe for which a reservation is set apart may take up residence or go upon the reservation without the written permission of the tribe.

(Effective June 1, 1976)

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Indians and Indian Reservations

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Indians and Indian Reservations

Sec. 47-65-1. Residence on a reservation

An Indian, as defined by statute, desiring to reside on his tribal reservation shall make application in writing to the welfare commissioner. He shall not take up residence on such reservation until written approval of the commissioner has been granted. Any Indian granted written permission to reside permanently or seasonally on a tribal reservation who fails to live on such reservation for at least two months of any calendar year without good cause shall be deemed to have abandoned his residency thereon at the end of any such calendar year, and may not return thereafter to live on such reservation without further written approval of the welfare commissioner.

(See 1961 Supp. § 47-63.)

Sec. 47-65-2. Building on a reservation

No tribal member shall erect, or cause any building to be erected, upon a reservation without written approval of the welfare commissioner. Any tribal member desiring to erect a building upon his tribal reservation shall make application in writing to the welfare commissioner and shall furnish suitable plans and specifications, as well as evidence of financial ability to complete such building. The site on which any building is to be erected will be set out and approved by the welfare commissioner. Any building erected on a reservation without written approval of the commissioner, or on any site which has not been approved by the commissioner, shall be subject to removal at the builder's expense at the discretion and direction of the welfare commissioner, or by the state upon the refusal or failure of the owner to remove it within sixty days of notice. If the state is required to remove such building, the builder shall be liable to the state for the cost of removal.

Sec. 47-65-3. Repairs and improvements to existing buildings

No person shall make any repairs or improvements to an existing building without the written approval of the welfare commissioner. Any person desiring to repair or improve an existing building shall make application in writing to the welfare commissioner and shall furnish suitable plans and specifications, as well as evidence of financial ability to complete such project.

Sec. 47-65-4. Buildings become part of tribal reservations

All buildings erected upon a tribal reservation by a tribal member shall be subject to the care, control and management of the welfare commissioner and, unless authority for future removal has been given by the welfare commissioner at the time of erection, shall be considered affixed to and a part of the reservation.

Sec. 47-65-5. Assistance to needy tribal members

To be eligible to receive assistance from the tribal fund or from the "Aid to Indians" appropriation, a person must be (1) a tribal member; (2) a bona fide fulltime resident of a tribal reservation; (3) without sufficient means to support himself on a reasonable standard

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of health and decency and with no spouse, child or children able to support him; (4) ineligible to receive public assistance.

Sec. 47-65-6. Use of Indian reservation

The Indian reservations shall be held for the use of tribal members only. Indians residing on the reservations shall maintain their homes and land adjacent to them in a sanitary and clean condition. The accumulation of rubbish, junk, garbage and other refuse in or around the premises occupied by them or on the reservation itself is prohibited. All such waste material shall be removed by the occupants of the various premises. No resident may cut timber or wood on the reservation except that needed by the tribal member for his own use in heating or cooking. No Indian shall commit a nuisance or illegal act on any reservation.

Sec. 47-65-7. Eviction for cause

Any Indian entering upon a reservation or building thereon without written permission of the welfare commissioner, or any Indian discarding or permitting refuse, rubbish or junk to accumulate around his premises after warning, or who uses the premises or reservation for any illegal act, shall be evicted from the reservation.

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Department of Housing

Subject

Common Interest Community Conversion

Inclusive Sections

§§ 47-295-1—47-295-4

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Sec. 47-295-2.	Program description
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Common Interest Community Conversion

Sec. 47-295-1. Definitions

(a) “Commissioner” means the Commissioner of Housing.

(b) “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 (1) real property taxes on, (2) insurance premiums on, (3) maintenance of, or (4) improvement of, any other real property other than that unit described in the declaration.

(c) “Conversion notice” means the information given a tenant as required pursuant to Section 47-284 of the General Statutes.

(d) “Declarant” means any person or group of persons acting in concert who (1) as part of a common promotional plan, offers to dispose of his interest in a unit not previously disposed of, or (2) reserves or succeeds to any special declarant right.

(e) “Department” means the Department of Housing.

(f) “Dwelling Unit” means any house or building or portion thereof which is occupied or is rented, leased or hired out to be occupied, as a home or residence of one or more persons.

(g) The definitions in Section 47-283 of the General Statutes apply to Sections 1 through 4 herein of the Regulations of Connecticut State Agencies.

(Effective May 23, 1988)

Sec. 47-295-2. Program description

(a) The Commissioner shall implement and administer a program monitoring the conversion of properties into common interest communities. If a declarant is planning to convert into a condominium or other common interest community any building which contains a unit last occupied as a rental dwelling unit, then before the common interest community is created, the declarant shall pay a \$50 registration fee per unit being converted and file with the Department such information regarding the conversion property and its tenants as is required herein. No person shall offer to sell, sell or otherwise dispose of any unit in a common interest community until such registration is duly filed and the fees are paid.

(b) The Commissioner is authorized to receive complaints of any violations of Sections 47-282 through 47-293, inclusive, of the General Statutes, and any other law concerning the conversion of dwelling units into common interest communities. The Commission shall cause investigations of such violations to be made and shall make every effort to ensure compliance with such laws. If the Commissioner believes such laws are being violated, he shall refer the matter to the Attorney General for further enforcement.

(Effective May 23, 1988)

Sec. 47-295-3. Filing requirements for common interest community conversions

(a) Registration forms, as prescribed by the Commissioner, shall be used by the declarant

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for the purpose of registering the conversion. The Commissioner may from time to time modify these forms, as needed to carry out the intent of the act.

(b) The required registration form shall include, but is not limited to the following information:

1. Name and address of property;
2. Date of conversion;
3. Number of units last occupied as dwelling units;
4. Number of dwelling units in conversion property as of date of the conversion notice;
5. Number of non-dwelling units in conversion property as of the date of the conversion notice;
6. Total number of units in conversion property, as of the date of the conversion notice;
7. Number of dwelling units occupied at any time during the preceding twelve months;
8. Number of tenants in all dwelling units as of the date of the conversion notice;
9. Registration fee of \$50 per unit;
10. A copy of the Public Offering Statement;
11. A copy of the Conversion Notice; and
12. Name, address and telephone number of the declarant or his representative.

(c) Six months after the delivery date of the conversion notice, the declarant shall submit to the Commissioner the information listed below:

1. Name and address of property;
2. Date of conversion notice;
3. Number of tenants that purchased their dwelling units;
4. Number of tenants that stayed in their dwelling units and did not purchase;
5. The number of tenants that moved;
6. Number, name and new address of moving tenants that received a relocation payment under Section 47-287 of the General Statutes, and the amount of each relocation payment;
7. Number of tenants against who summary process proceedings were begun; and
8. A statement of the declarant, certified as true under the penalty of false statement, that, to the best of his knowledge and belief, all tenants entitled to a relocation payment under Section 47-287 of the General Statutes received such payment. If any tenant entitled to a relocation payment did not receive it, provide a statement explaining why the payment was not made.

(d) Nine months after the delivery of the conversion notice, the declarant shall submit to the Commissioner the information indicated below:

1. Name and address of property;
2. Date of conversion notice;
3. Number of tenants that purchased their dwelling units;
4. Number of tenants that stayed in their dwelling units and did not purchase;
5. The number of tenants that moved;
6. Number, name and new address of moving tenants that received a relocation payment under Section 47-287 of the General Statutes, and the amount of each relocation payment;

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7. Number of tenants against whom summary process proceedings were begun; and

8. A statement of the declarant, certified as true under the penalty of false statement, that, to the best of his knowledge and belief, all tenants entitled to a relocation payment under Section 47-287 of the General Statutes received such payment. If any tenant entitled to a relocation payment did not receive it, provide a statement explaining why the payment was not made.

(Effective May 23, 1988)

Sec. 47-295-4. Investigation of complaints

(a) The Commissioner shall investigate any complaints filed with the Department alleging violations of Sections 47-282 to 47-293, inclusive, and Section 47a-23c of the General Statutes, as it applies to the conversion of dwelling units into common interest communities, and any other law concerning the conversion of dwelling units into a common interest community.

(b) The Commissioner may receive complaints orally, by telephone, in writing or on a form provided for that purpose.

(c) After reviewing the complaint, the Commissioner may require from the parties all information and/or documentation he deems necessary to effectively conduct his investigation.

(d) If, in the opinion of the Commissioner, there has been a violation of the laws, he shall make every effort to ensure compliance with such laws. If he cannot obtain compliance, he shall refer the matter to the Attorney General.

(Effective May 23, 1988)