AN ACT concerning consumer protection and common interest communities; amending K.S.A. 2016 Supp. 58-4609 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) As used in this section:

(1) "Consumer" means:

(A) An actual or prospective purchaser, lessee, assignee or recipient of a unit in a common interest community as defined in K.S.A. 2016 Supp. 58-4602(n), and amendments thereto; and

(B) a co-obligor or surety for a unit owner.

(2) "Division" means the division of consumer protection of the Kansas attorney general's office.

(b) Any consumer who believes that the board of directors or the property manager of a common interest community has violated the rights of the consumer as established by the Kansas uniform common interest owners bill of rights act, K.S.A. 2016 Supp. 58-4601 et seq., and amendments thereto, may file a complaint with the division.

The division shall investigate each complaint. If the division determines the complaint is valid, it may utilize any remedy available under the Kansas consumer protection act, K.S.A. 50-623 et seq., and amendments thereto.

(c) This section shall be a part of and supplemental to the Kansas consumer protection act.

Sec. 2. K.S.A. 2016 Supp. 58-4609 is hereby amended to read as follows: 58-4609. (a) In the performance of their duties, officers and members of the board of directors appointed by the declarant shall exercise the degree of care and loyalty to the association required of a trustee.

Officers and members of the board of directors not appointed by the declarant and the property manager appointed by the board shall exercise the degree of care and loyalty to the association required of an officer or director of a corporation organized, and are subject to the conflict of interest rules governing directors and officers, under existing law. The standards of care and loyalty described in this section apply regardless of the form in which the association is organized.

(b) An association shall have a board of directors created in
accordance with its declaration or bylaws. Except as otherwise provided in
the declaration, the bylaws, subsection (c), or other provisions of this act,
the board of directors acts on behalf of the association.
(c) The board of directors may not:
(1) Amend the declaration except as provided by law other than this
act;
(2) amend the bylaws;
(3) terminate the common interest community;
(4) elect members of the board of directors, but may fill vacancies in
its membership for the unexpired portion of any term or, if earlier, until the
next regularly scheduled election of board of directors' members; or
(5) determine the qualifications, powers, duties, or terms of office of
board of directors' members.
(d) This section shall take effect on and after January 1, 2011.
Sec. 3. K.S.A. 2016 Supp. 58-4609 is hereby repealed.
Sec. 4. This act shall take effect and be in force from and after its
publication in the statute book.