A BILL FOR AN ACT

CONCERNING INCREASED PROTECTION FOR HOMEOWNERS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Prohibits the homeowners' association (HOA) of a common interest community from adopting rules that prevent a homeowner from:

- Displaying an American flag or political sign;
- Parking an emergency vehicle in the community, if the homeowner is employed by a fire department or other provider of emergency services and must have ready access to the vehicle as a condition of employment.

Invalidates any new or existing covenant or condition that prohibits xeriscape or requires landscaping to include turf grass.
Limits the availability of foreclosure to an HOA seeking to enforce a lien for fines and other charges imposed under community covenants. Invalidates covenant provisions that purport to waive a homeowner's rights under homestead laws.

Requires the buyer of a home in a community subject to an HOA to receive notice and documentation regarding the ability of the HOA to place a lien on the property for unpaid assessments and an up-to-date accounting of the HOA's financial condition including any unpaid assessments, fines, or known covenant violations applicable to the property. Requires the HOA to furnish information on unpaid assessments to an escrow agent upon request. Makes any such disclosure to a licensed escrow agent binding on the HOA.

Requires the HOA to furnish to all homeowners in writing, at least once per year:

- Current contact information for the HOA and its management company or agent; and
- The results of its most recent annual financial audit, which must be conducted by a certified public accountant.

Supersedes any provision of the bylaws or corporation statutes that would require a specific number or percentage of homeowners to join in any lawsuit challenging corporate action by the HOA.

Enacts open meeting provisions for the executive board of the HOA. Requires the board to give homeowners a reasonable opportunity to speak before taking action on a community issue.

Enacts conflict-of-interest rules for board members. Invalidates any action taken, and any contract entered into, in which a board member has an undisclosed conflict of interest.

Requires 90 days' written notice to all homeowners before community assets may be sold or encumbered.

Enacts open records requirements for books and records of the HOA. Allows the HOA to charge a reasonable fee, not to exceed 25¢ per page, for copies. Requires that a records request be made in good faith, for a proper purpose, and adequately describe the records that are sought. Exempts privileged information such as that pertaining to pending litigation or personnel matters.

When a homeowner submits a claim concerning injury occurring on or damage to the owner's property:

- Prohibits the insurance carrier from denying coverage on the basis that the injury or damage actually occurred on or to a third party's property;
- Requires the insurance carrier to promptly settle the owner's claim without considering whether the responsibility for payment should be assumed by a third party; and
- Allows the carrier to pursue a subrogation claim against
such a third party after making the settlement. Specifies that if the carrier's subrogation claim is successful, the homeowner must pay the amount of the settlement to the proper beneficiary.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 37-60-126 (11), Colorado Revised Statutes, is amended to read:

37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines. (11) (a) Any new restrictive covenant that prohibits or limits XERISCAPE, PROHIBITS OR LIMITS the installation or use of drought-tolerant vegetative landscapes, is prohibited or requires CULTIVATED VEGETATION TO CONSIST EXCLUSIVELY OR PRIMARILY OF TURF GRASS IS HEREBY DECLARED CONTRARY TO PUBLIC POLICY AND ON THAT BASIS SHALL BE VOID AND UNENFORCEABLE.

(b) As used in this subsection (11):

(I) "EXECUTIVE BOARD POLICY OR PRACTICE" INCLUDES ANY ADDITIONAL PROCEDURAL STEP OR BURDEN, FINANCIAL OR OTHERWISE, PLACED ON A UNIT OWNER WHO SEEKS APPROVAL FOR A LANDSCAPING CHANGE BY THE EXECUTIVE BOARD OF A UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION 38-33.3-103, C.R.S., AND NOT INCLUDED IN THE EXISTING DECLARATION OR BYLAWS OF THE ASSOCIATION. AN "EXECUTIVE BOARD POLICY OR PRACTICE" INCLUDES, WITHOUT LIMITATION, THE REQUIREMENT OF:

(A) AN ARCHITECT'S STAMP;

(B) PREAPPROVAL BY AN ARCHITECT OR LANDSCAPE ARCHITECT RETAINED BY THE EXECUTIVE BOARD;
(C) AN ANALYSIS OF WATER USAGE UNDER THE PROPOSED NEW
LANDSCAPE PLAN OR A HISTORY OF WATER USAGE UNDER THE UNIT
OWNER'S EXISTING LANDSCAPE PLAN; AND

(D) THE ADOPTION OF A LANDSCAPING CHANGE FEE.

(II) "Restrictive covenant" means any covenant, restriction,
BYLAW, EXECUTIVE BOARD POLICY OR PRACTICE, OR condition applicable
to real property for the purpose of controlling land use, but does not
include any covenant, restriction, or condition imposed on such real
property by any governmental entity.

(III) "TURF GRASS" MEANS CONTINUOUS PLANT COVERAGE
CONSISTING OF HYBRIDIZED GRASSES THAT, WHEN REGULARLY MOWED,
FORM A DENSE GROWTH OF LEAF BLADES AND ROOTS.

(IV) "XERISCAPE" MEANS THE APPLICATION OF THE PRINCIPLES OF
LANDSCAPE PLANNING AND DESIGN, SOIL ANALYSIS AND IMPROVEMENT,
APPROPRIATE PLANT SELECTION, LIMITATION OF TURF AREA, USE OF
MULCHES, IRRIGATION EFFICIENCY, AND APPROPRIATE MAINTENANCE THAT
RESULTS IN WATER USE EFFICIENCY AND WATER-SAVING PRACTICES.

(c) NOTHING IN THIS SUBSECTION (11) SHALL PRECLUDE THE
EXECUTIVE BOARD OF A COMMON INTEREST COMMUNITY FROM TAKING
ENFORCEMENT ACTION AGAINST A UNIT OWNER WHO ALLOWS HIS OR HER
EXISTING LANDSCAPING TO DIE; EXCEPT THAT:

(I) SUCH ENFORCEMENT ACTION SHALL BE SUSPENDED DURING A
DROUGHT EMERGENCY DECLARED BY THE JURISDICTION IN WHICH THE
COMMON INTEREST COMMUNITY IS LOCATED, IN WHICH CASE THE UNIT
OWNER SHALL COMPLY WITH ANY WATERING RESTRICTIONS IMPOSED BY
THE WATER PROVIDER FOR THE COMMON INTEREST COMMUNITY;

(II) ENFORCEMENT SHALL BE CONSISTENT WITHIN THE COMMUNITY
AND NOT ARBITRARY OR CAPRICIOUS; AND

(III) ONCE THE DROUGHT EMERGENCY IS LIFTED, THE UNIT OWNER
SHALL BE ALLOWED A REASONABLE OPPORTUNITY TO RE-SEED AND REVIVE
TURF GRASS BEFORE BEING REQUIRED TO REPLACE IT WITH NEW SOD.

SECTION 2. Part 1 of article 33.3 of title 38, Colorado Revised
Statutes, is amended BY THE ADDITION OF A NEW SECTION to
read:

38-33.3-106.5. Prohibitions contrary to public policy - patriotic
and political expression - emergency vehicles - definitions.

(1) NOTWITHSTANDING ANY PROVISION IN THE DECLARATION, BYLAWS,
OR RULES AND REGULATIONS OF THE ASSOCIATION TO THE CONTRARY, AN
ASSOCIATION SHALL NOT PROHIBIT ANY OF THE FOLLOWING:

(a) THE DISPLAY OF THE AMERICAN FLAG BY A UNIT OWNER
ON THAT UNIT OWNER'S PROPERTY, IN A WINDOW OF THE UNIT OWNER'S
RESIDENCE, OR ON A BALCONY ADJOINING THE UNIT OWNER'S PROPERTY IF
THE AMERICAN FLAG IS DISPLAYED IN A MANNER CONSISTENT WITH THE
FEDERAL FLAG CODE, P.L. 94-344; 90 STAT. 810; 4 U.S.C. 4 TO 10. THE
ASSOCIATION MAY ADOPT REASONABLE RULES REGARDING THE
PLACEMENT AND MANNER OF DISPLAY OF THE AMERICAN FLAG. THE
ASSOCIATION RULES MAY REGULATE THE LOCATION AND SIZE OF FLAGS
AND FLAGPOLES, BUT SHALL NOT PROHIBIT THE INSTALLATION OF A FLAG
OR FLAGPOLE.

(b) (I) THE DISPLAY OF A POLITICAL SIGN BY A UNIT OWNER ON
THAT UNIT OWNER'S PROPERTY OR IN A WINDOW OF THE UNIT OWNER'S
RESIDENCE; EXCEPT THAT AN ASSOCIATION MAY PROHIBIT THE DISPLAY OF
POLITICAL SIGNS EARLIER THAN FORTY-FIVE DAYS BEFORE THE DAY OF AN
ELECTION AND LATER THAN SEVEN DAYS AFTER AN ELECTION DAY. AN
ASSOCIATION MAY REGULATE THE SIZE AND NUMBER OF POLITICAL SIGNS THAT MAY BE PLACED ON A UNIT OWNER'S PROPERTY IF THE ASSOCIATION'S REGULATION IS NO MORE RESTRICTIVE THAN ANY APPLICABLE CITY, TOWN, OR COUNTY ORDINANCE THAT REGULATES THE SIZE AND NUMBER OF POLITICAL SIGNS ON RESIDENTIAL PROPERTY. IF THE CITY, TOWN, OR COUNTY IN WHICH THE PROPERTY IS LOCATED DOES NOT REGULATE THE SIZE AND NUMBER OF POLITICAL SIGNS ON RESIDENTIAL PROPERTY, THE ASSOCIATION SHALL PERMIT AT LEAST ONE POLITICAL SIGN PER POLITICAL OFFICE OR BALLOT ISSUE THAT IS CONTESTED IN A PENDING ELECTION, WITH THE MAXIMUM DIMENSIONS OF THIRTY-SIX INCHES BY FORTY-EIGHT INCHES ON A UNIT OWNER'S PROPERTY.

(II) AS USED IN THIS PARAGRAPH (b), "POLITICAL SIGN" MEANS A SIGN THAT CARRIES A MESSAGE INTENDED TO INFLUENCE THE OUTCOME OF AN ELECTION, INCLUDING SUPPORTING OR OPPOSING THE ELECTION OF A CANDIDATE, THE RECALL OF A PUBLIC OFFICIAL, OR THE PASSAGE OF A BALLOT ISSUE.

(c) THE PARKING OF A MOTOR VEHICLE BY A UNIT OWNER ON A STREET, DRIVEWAY, OR GUEST PARKING AREA IN THE COMMON INTEREST COMMUNITY IF THE VEHICLE IS REQUIRED TO BE AVAILABLE AT DESIGNATED PERIODS AT THE UNIT OWNER'S RESIDENCE AS A CONDITION OF THE UNIT OWNER'S EMPLOYMENT AND ALL OF THE FOLLOWING CRITERIA ARE MET:

(I) THE VEHICLE HAS A GROSS VEHICLE WEIGHT RATING OF TEN THOUSAND POUNDS OR LESS;

(II) THE UNIT OWNER IS A BONA FIDE MEMBER OF A VOLUNTEER FIRE DEPARTMENT, IS EMPLOYED BY AN EMERGENCY SERVICE PROVIDER, AS DEFINED IN SECTION 29-11-101 (1.6), C.R.S., OR IS A PEACE OFFICER AS
DESCRIBED IN SECTION 16-2.5-101, C.R.S.; =

(III) THE VEHICLE BEARS AN OFFICIAL EMBLEM OR OTHER VISIBLE DESIGNATION OF THE FIRE DEPARTMENT, EMERGENCY SERVICE PROVIDER, OR OTHER PUBLIC AGENCY; AND

(IV) PARKING OF THE VEHICLE CAN BE ACCOMPLISHED WITHOUT OBSTRUCTING EMERGENCY ACCESS OR INTERFERING WITH THE REASONABLE NEEDS OF OTHER UNIT OWNERS TO USE STREETS AND DRIVEWAYS WITHIN THE COMMON INTEREST COMMUNITY.

SECTION 3. 38-33.3-117 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

38-33.3-117. Applicability to preexisting common interest communities. (1) Except as provided in section 38-33.3-119, the following sections shall apply to all common interest communities created within this state before July 1, 1992, with respect to events and circumstances occurring on or after July 1, 1992:

(h.3) 38-33.3-205 (2);
(h.5) 38-33.3-209.4 AND 38-33.3-209.6;
(h.7) 38-33.3-223;
(i.3) 38-33.3-303 (4) (b) AND (8) (b);
(i.5) 38-33.3-308 (2.5) AND (4.5);
(i.7) 38-33.3-310.5;
(j.5) 38-33.3-312 (3) (a);

SECTION 4. 38-33.3-124, Colorado Revised Statutes, is amended to read:

38-33.3-124. Legislative declaration - alternative dispute resolution encouraged. (1) THE GENERAL ASSEMBLY FINDS AND
DECLARÁ QUE EL COSTE, COMPLICACIÓN Y DELAY INHERENT IN COURT PROCEEDINGS MAKE LITIGATION A PARTICULARLY INEFICIENT MEANS OF RESOLVING NEIGHBORHOOD DISPUTES. THEREFORE, COMMON INTEREST COMMUNITIES ARE ENCOURAGED TO ADOPT PROTOCOLS THAT MAKE USE OF MEDIATION OR ARBITRATION AS ALTERNATIVES TO, OR PRECONDITIONS UPON, THE FILING OF A COMPLAINT BETWEEN A UNIT OWNER AND ASSOCIATION IN SITUATIONS THAT DO NOT INVOLVE AN IMMINENT THREAT TO THE PEACE, HEALTH, OR SAFETY OF THE COMMUNITY.

(1) (2) (a) Any controversy between an association and a unit owner arising out of the provisions of this article may be submitted to mediation by either party to the controversy prior to the commencement of any legal proceeding.

(2) (b) The mediation agreement, if one is reached, may be presented to the court as a stipulation. Either party to the mediation may terminate the mediation process without prejudice.

(3) (c) If either party subsequently violates the stipulation, the other party may apply immediately to the court for relief.

(3) THE DECLARATION, BYLAWS, OR RULES OF THE ASSOCIATION MAY SPECIFY SITUATIONS IN WHICH DISPUTES SHALL BE RESOLVED BY BINDING ARBITRATION UNDER THE "UNIFORM ARBITRATION ACT", PART 2 OF ARTICLE 22 OF TITLE 13, C.R.S.

SECTION 5. Part 2 of article 33.3 of title 38, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

38-33.3-209.4. Identity of association - agent - manager -
**contact information.** The association shall provide to all unit owners, at least once per year, a written notice stating the name of the association; the name of the association’s designated agent or management company, if any; and a valid physical address and telephone number for both the association and the designated agent or management company, if any. The notice shall also include the name of the common interest community, the initial date of recording of the declaration, and the reception number or book and page for the main document that constitutes the declaration. If the association’s address, designated agent, or management company changes, the association shall provide all unit owners with an amended notice within ninety days after the change.

**38-33.3-209.6. Notice to escrow agent regarding unpaid assessments.** On written request, the association shall furnish to a lienholder, title insurance company, escrow agent, unit owner, or person designated by a unit owner a statement setting forth the amount of any unpaid assessment against the unit. The association shall furnish the statement within fifteen days after receipt of the request. Such statement shall be binding on the association, the executive board, and every unit owner if the statement is requested by a title insurance company or escrow agent. Failure to provide the statement to the title insurance company or escrow agent within the time required by this section shall extinguish any lien for unpaid assessments then due.

**38-33.3-221.5. Withdrawal from merged common interest community.** (1) A common interest community that was merged
OR CONSOLIDATED WITH ANOTHER COMMON INTEREST COMMUNITY, OR IS
PARTY TO AN AGREEMENT TO DO SO PURSUANT TO SECTION 38-33.3-221,
MAY WITHDRAW FROM THE MERGED OR CONSOLIDATED COMMON
INTEREST COMMUNITY OR TERMINATE THE AGREEMENT TO MERGE OR
CONSOLIDATE, WITHOUT THE CONSENT OF THE OTHER COMMON INTEREST
COMMUNITY OR COMMUNITIES INVOLVED, IF THE COMMON INTEREST
COMMUNITY WISHING TO WITHDRAW MEETS ALL OF THE FOLLOWING
CRITERIA:

(a) IT IS A SEPARATE, PLATTED SUBDIVISION;
(b) ITS UNIT OWNERS ARE REQUIRED TO PAY INTO TWO COMMON
INTEREST COMMUNITIES OR SEPARATE UNIT OWNERS’ ASSOCIATIONS;
(c) IT IS OR HAS BEEN A SELF-OPERATING COMMON INTEREST
COMMUNITY OR ASSOCIATION CONTINUOUSLY FOR AT LEAST TWENTY-FIVE
YEARS;
(d) THE TOTAL NUMBER OF UNIT OWNERS COMPRISING IT IS FIFTEEN
PERCENT OR LESS OF THE TOTAL NUMBER OF UNIT OWNERS IN THE MERGED
OR CONSOLIDATED COMMON INTEREST COMMUNITY OR ASSOCIATION;
(e) ITS UNIT OWNERS HAVE APPROVED THE WITHDRAWAL BY A
MAJORITY VOTE AND AT LEAST SEVENTY-FIVE PERCENT OF SUCH UNIT
OWNERS PARTICIPATED IN THE VOTE; AND
(f) ITS WITHDRAWAL WOULD NOT SEVERELY IMPACT THE
REMAINDER OF THE MERGED COMMON INTEREST COMMUNITY OR
ASSOCIATION.

(2) IF AN ASSOCIATION HAS MET THE REQUIREMENTS SET FORTH IN
SUBSECTION (1) OF THIS SECTION, IT SHALL BE CONSIDERED WITHDRAWN
AS OF THE DATE OF THE ELECTION AT WHICH ITS UNIT OWNERS VOTED TO
WITHDRAW.
38-33.3-223. Sale of unit - disclosure to buyer. (1) Except in the case of a foreclosure sale, the seller of a unit in a common interest community shall mail or deliver to the purchaser, on or before the title objection deadline, copies of all of the following in the most current form available:

(a) The bylaws and the rules of the association;
(b) The declaration;
(c) Any party wall agreements;
(d) Minutes of the most recent annual unit owners’ meeting and of any executive board meetings that occurred within the six months immediately preceding the title deadline;
(e) The association's operating budget;
(f) The association's annual income and expenditures statement; and
(g) The association's annual balance sheet.

(2) Written notice of any unsatisfactory provision in any of the documents listed in subsection (1) of this section, which notice is signed by the buyer or on behalf of the buyer and given to the seller on or before the title objection deadline, shall be cause for termination of the contract of purchase and sale of the unit. If the seller does not receive such written notice of objection on or before the title objection deadline, the buyer shall be deemed to have accepted the terms of said documents, and the buyer’s right to terminate the contract on this basis is waived.

SECTION 6. 38-33.3-301, Colorado Revised Statutes, is
amended to read:

38-33.3-301. Organization of unit owners' association. A unit owners' association shall be organized no later than the date the first unit in the common interest community is conveyed to a purchaser. The membership of the association at all times shall consist exclusively of all unit owners or, following termination of the common interest community, of all former unit owners entitled to distributions of proceeds under section 38-33.3-218, or their heirs, personal representatives, successors, or assigns. The association shall be organized as a nonprofit, not-for-profit, or for-profit corporation or as a limited liability company in accordance with the laws of the state of Colorado; except that the failure of the association to incorporate or organize as a limited liability company will not adversely affect either the existence of the common interest community for purposes of this article or the rights of persons acting in reliance upon such existence, other than as specifically provided in section 38-33.3-316. **NEITHER THE CHOICE OF ENTITY NOR THE ORGANIZATIONAL STRUCTURE OF THE ASSOCIATION SHALL BE DEEMED TO AFFECT ITS SUBSTANTIVE RIGHTS AND OBLIGATIONS UNDER THIS ARTICLE.**

SECTION 7. The introductory portion to 38-33.3-302 (1), Colorado Revised Statutes, is amended, and the said 38-33.3-302 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

38-33.3-302. Powers of unit owners' association. (1) Except as provided in subsection (2) SUBSECTIONS (2) AND (3) of this section, and subject to the provisions of the declaration, the association, without specific authorization in the declaration, may:

(3) **ANY MANAGING AGENT, EMPLOYEE, INDEPENDENT**
CONTRACTOR, OR OTHER PERSON ACTING ON BEHALF OF THE ASSOCIATION SHALL BE SUBJECT TO THIS ARTICLE TO THE SAME EXTENT AS THE ASSOCIATION ITSELF WOULD BE.

(4) THE ASSOCIATION’S CONTRACT WITH A MANAGING AGENT SHALL BE TERMINABLE FOR CAUSE WITHOUT PENALTY TO THE ASSOCIATION. ANY SUCH CONTRACT SHALL BE SUBJECT TO RENEGOTIATION AND RENEWAL NO LESS FREQUENTLY THAN ONCE EVERY TWO YEARS.

SECTION 8. 38-33.3-303 (4), Colorado Revised Statutes, is amended to read:

38-33.3-303. Executive board members and officers - powers and duties - _____ audit. (4) (a) Within ninety days after adoption of any proposed budget for the common interest community, the executive board shall mail, by ordinary first-class mail, or otherwise deliver a summary of the budget to all the unit owners and shall set a date for a meeting of the unit owners to consider the budget. Such meeting shall occur within a reasonable time after mailing or other delivery of the summary, or as allowed for in the bylaws. The executive board shall give notice to the unit owners of the meeting as allowed for in the bylaws. Unless the declaration requires otherwise, the budget proposed by the executive board does not require approval from the unit owners and it will be deemed approved by the unit owners in the absence of a veto at the noticed meeting by a majority of all unit owners, or if permitted in the declaration, a majority of a class of unit owners, or any larger percentage specified in the declaration, whether or not a quorum is present. In the event that the proposed budget is vetoed, the periodic budget last proposed by the executive board and not vetoed by the unit owners must
be continued until a subsequent budget proposed by the executive board
is not vetoed by the unit owners.

(b) The books and records of the association shall be
subject to an audit or review, using generally accepted
accounting principles, at least once every two years by a person
selected by the executive board. Such person needs not be a
certified public accountant except in the case of a full audit. A
full audit shall not be required except upon the request of the
owners of at least one-third of the units. Such audit or review
shall be completed by the date specified in the declaration or
bylaws, but no later than one hundred eighty days after the end
of the association’s fiscal year, and shall be made available
upon request to any unit owner beginning no later than thirty
days after its completion.

SECTION 9. 38-33.3-308 (1) and (2), Colorado Revised Statutes,
are amended, and the said 38-33.3-308 is further amended by the
addition of the following new subsections, to read:

38-33.3-308. Meetings. (1) Meetings of the unit owners, as the
members of the association, shall be held at least once each year. Special
meetings of the unit owners may be called by the president, by a majority
of the executive board, or by unit owners having twenty percent, or any
lower percentage specified in the bylaws, of the votes in the association.
Not less than ten nor more than fifty days in advance of any meeting of
the unit owners, the secretary or other officer specified in the bylaws
shall cause notice to be hand delivered or sent prepaid by United States
mail to the mailing address of each unit or to any other mailing address
designated in writing by the unit owner. The notice of any meeting must
SHALL BE PHYSICALLY POSTED IN A CONSPICUOUS PLACE, TO THE EXTENT
THAT SUCH POSTING IS FEASIBLE AND PRACTICABLE, IN ADDITION TO ANY
ELECTRONIC POSTING OR ELECTRONIC MAIL NOTICES THAT MAY BE GIVEN
PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION. THE
NOTICE SHALL state the time and place of the meeting and the items on the
agenda, including the general nature of any proposed amendment to the
declaration or bylaws, any budget changes, and any proposal to remove
an officer or member of the executive board.

(2) (a) All regular and special meetings of the association's
executive board, or any committee thereof, shall be open to attendance by
all members of the association or their representatives. Agendas for
meetings of the executive board shall be made reasonably available for
examination by all members of the association or their representatives.

(b) THE ASSOCIATION IS ENCOURAGED TO PROVIDE ALL NOTICES
AND AGENDAS REQUIRED BY THIS ARTICLE IN ELECTRONIC FORM, BY
POSTING ON A WEB SITE OR OTHERWISE, IN ADDITION TO PRINTED FORM.
IF SUCH ELECTRONIC MEANS ARE AVAILABLE, THE ASSOCIATION SHALL
PROVIDE NOTICE OF ALL REGULAR AND SPECIAL MEETINGS BY ELECTRONIC
MAIL TO ALL UNIT OWNERS WHO SO REQUEST AND WHO FURNISH THE
ASSOCIATION WITH THEIR ELECTRONIC MAIL ADDRESSES. ELECTRONIC
NOTICE OF A SPECIAL MEETING SHALL BE GIVEN AS SOON AS POSSIBLE BUT
AT LEAST TWENTY-FOUR HOURS BEFORE THE MEETING.

(2.5) (a) NOTWITHSTANDING ANY PROVISION IN THE
DECLARATION, BYLAWS, OR OTHER DOCUMENTS TO THE CONTRARY, ALL
MEETINGS OF THE ASSOCIATION AND BOARD OF DIRECTORS ARE OPEN TO
every unit owner of the association, or to any person designated
BY A UNIT OWNER IN WRITING AS THE UNIT OWNER'S REPRESENTATIVE, AND ALL UNIT OWNERS OR DESIGNATED REPRESENTATIVES SO DESIRING SHALL BE PERMITTED TO ATTEND, LISTEN, AND SPEAK AT AN APPROPRIATE TIME DURING THE DELIBERATIONS AND PROCEEDINGS; EXCEPT THAT, FOR REGULAR AND SPECIAL MEETINGS OF THE BOARD, UNIT OWNERS WHO ARE NOT BOARD MEMBERS MAY NOT PARTICIPATE IN ANY DELIBERATION OR DISCUSSION UNLESS EXPRESSLY SO AUTHORIZED BY A VOTE OF THE MAJORITY OF A QUORUM OF THE BOARD.

(b) THE BOARD MAY PLACE REASONABLE TIME RESTRICTIONS ON THOSE PERSONS SPEAKING DURING THE MEETING BUT SHALL PERMIT A UNIT OWNER OR A UNIT OWNER'S DESIGNATED REPRESENTATIVE TO SPEAK BEFORE THE BOARD TAKES FORMAL ACTION ON AN ITEM UNDER DISCUSSION, IN ADDITION TO ANY OTHER OPPORTUNITIES TO SPEAK. THE BOARD SHALL PROVIDE FOR A REASONABLE NUMBER OF PERSONS TO SPEAK ON EACH SIDE OF AN ISSUE.

(4.5) UPON FINAL RESOLUTION OF ANY MATTER FOR WHICH THE BOARD RECEIVED LEGAL ADVICE OR THAT CONCERNED PENDING OR CONTEMPLATED LITIGATION, THE BOARD MAY DISCLOSE INFORMATION ABOUT THAT MATTER IN AN OPEN MEETING EXCEPT FOR INFORMATION THAT IS REQUIRED TO REMAIN CONFIDENTIAL BY THE TERMS OF A SETTLEMENT AGREEMENT OR JUDGMENT.

SECTION 10. 38-33.3-310 (1) and (2), Colorado Revised Statutes, are amended to read:

38-33.3-310. Voting - proxies. (1) (a) If only one of the multiple owners of a unit is present at a meeting of the association, such owner is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast
only in accordance with the agreement of a majority in interest of the owners, unless the declaration expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

(b) Votes for positions on the executive board shall be taken by secret ballot and, upon the request of one or more unit owners, a vote on any other matter affecting the common interest community on which all unit owners are entitled to vote shall be by secret ballot. Ballots shall be counted by a neutral third party or by a unit owner who is not a candidate, who attends the meeting at which the vote is held, and who is selected at random from a pool of two or more such unit owners. The results of the vote shall be reported without reference to names, addresses, or other identifying information.

(2) (a) Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. A proxy shall not be valid if obtained through fraud or misrepresentation. Unless otherwise provided in the declaration, bylaws, or rules of the association, appointment of proxies may be made substantially as provided in section 7-127-203, C.R.S.

(b) If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice.
A proxy terminates eleven months after its date, unless it provides otherwise.

(c) The Association is entitled to reject a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation if the Secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the unit owner.

(d) The Association and its officer or agent who accepts or rejects a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation in good faith and in accordance with the standards of this section are not liable in damages for the consequences of the acceptance or rejection.

(e) Any action of the Association based on the acceptance or rejection of a vote, consent, written ballot, waiver, proxy appointment, or proxy appointment revocation under this section is valid unless a court of competent jurisdiction determines otherwise.

SECTION 11. Part 3 of article 33.3 of title 38, Colorado Revised Statutes, is amended by the addition of a new section to read:

38-33.3-310.5. Executive board - conflicts of interest. (1) If any contract, decision, or other action taken by or on behalf of the executive board would financially benefit any member of the executive board or any person who is a parent, grandparent, spouse, child, or sibling of a member of the executive board or a parent or spouse of any of those persons, that member of the
EXECUTIVE BOARD SHALL DECLARE A CONFLICT OF INTEREST FOR THAT ISSUE. THE MEMBER SHALL DECLARE THE CONFLICT IN AN OPEN MEETING, PRIOR TO ANY DISCUSSION OR ACTION ON THAT ISSUE. AFTER MAKING SUCH DECLARATION, THE MEMBER MAY PARTICIPATE IN THE DISCUSSION BUT SHALL NOT VOTE ON THAT ISSUE.

(2) ANY CONTRACT ENTERED INTO IN VIOLATION OF THIS SECTION IS VOID AND UNENFORCEABLE.

(3) THIS SECTION SHALL NOT BE CONSTRUED TO INVALIDATE ANY PROVISION OF THE DECLARATION, BYLAWS, OR OTHER DOCUMENTS THAT MORE STRICTLY DEFINES CONFLICTS OF INTEREST OR CONTAINS FURTHER LIMITS ON THE PARTICIPATION OF EXECUTIVE BOARD MEMBERS WHO MAY HAVE CONFLICTS OF INTEREST.

SECTION 12. 38-33.3-315, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

38-33.3-315. Assessments for common expenses. (7) UNLESS OTHERWISE SPECIFICALLY PROVIDED IN THE DECLARATION OR BYLAWS, THE ASSOCIATION MAY ENTER INTO AN ESCROW AGREEMENT WITH THE HOLDER OF A UNIT OWNER’S MORTGAGE SO THAT ASSESSMENTS MAY BE COMBINED WITH THE UNIT OWNER'S MORTGAGE PAYMENTS AND PAID AT THE SAME TIME AND IN THE SAME MANNER; EXCEPT THAT ANY SUCH ESCROW AGREEMENT SHALL COMPLY WITH ANY APPLICABLE RULES OF THE FEDERAL HOUSING ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, VETERANS' ADMINISTRATION, OR OTHER GOVERNMENT AGENCY.
SECTION 13. 38-33.3-317, Colorado Revised Statutes, is amended to read:

38-33.3-317. Association records. (1) (a) The association shall keep financial records sufficiently detailed to enable the association to comply with section 38-33.3-316 (8) concerning statements of unpaid assessments.


(c) THE ASSOCIATION OR ITS AGENT SHALL MAINTAIN A RECORD OF UNIT OWNERS IN A FORM THAT PERMITS PREPARATION OF A LIST OF THE NAMES AND ADDRESSES OF ALL UNIT OWNERS, SHOWING THE NUMBER OF VOTES EACH UNIT OWNER IS ENTITLED TO VOTE.

(d) THE ASSOCIATION SHALL MAINTAIN ITS RECORDS IN WRITTEN FORM OR IN ANOTHER FORM CAPABLE OF CONVERSION INTO WRITTEN FORM WITHIN A REASONABLE TIME.

(2) All financial and other records shall be made reasonably available for examination AND COPYING by any unit owner and such owner's authorized agents.

(3) THE ASSOCIATION MAY CHARGE A REASONABLE FEE, NOT TO EXCEED TWENTY-FIVE CENTS PER PAGE, FOR COPIES OF ASSOCIATION
RECORDS.

(4) AS USED IN THIS SECTION, "REASONABLY AVAILABLE" MEANS AVAILABLE DURING NORMAL BUSINESS HOURS, UPON NOTICE OF FIVE BUSINESS DAYS OR LESS, TO THE EXTENT THAT:

(a) THE REQUEST IS MADE IN GOOD FAITH AND FOR A PROPER PURPOSE;

(b) THE REQUEST DESCRIBES WITH REASONABLE PARTICULARITY THE RECORDS SOUGHT AND THE PURPOSE OF THE REQUEST; AND

(c) THE RECORDS ARE RELEVANT TO THE PURPOSE OF THE REQUEST.

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(5) IN ADDITION TO THE RECORDS SPECIFIED IN SUBSECTION (1) OF THIS SECTION, THE ASSOCIATION SHALL KEEP A COPY OF EACH OF THE FOLLOWING RECORDS AT ITS PRINCIPAL OFFICE:

(a) ITS ARTICLES OF INCORPORATION, IF IT IS A CORPORATION, OR THE CORRESPONDING ORGANIZATIONAL DOCUMENTS IF IT IS ANOTHER FORM OF ENTITY;

(b) THE DECLARATION;

(c) ITS BYLAWS;

(d) RESOLUTIONS ADOPTED BY ITS EXECUTIVE BOARD RELATING TO THE CHARACTERISTICS, QUALIFICATIONS, RIGHTS, LIMITATIONS, AND OBLIGATIONS OF UNIT OWNERS OR ANY CLASS OR CATEGORY OF UNIT OWNERS;

(e) THE MINUTES OF ALL UNIT OWNERS’ MEETINGS, AND RECORDS OF ALL ACTION TAKEN BY UNIT OWNERS WITHOUT A MEETING, FOR THE PAST THREE YEARS;

(f) ALL WRITTEN COMMUNICATIONS WITHIN THE PAST THREE
YEARS TO UNIT OWNERS GENERALLY AS UNIT OWNERS;

(g) A LIST OF THE NAMES AND BUSINESS OR HOME ADDRESSES OF
ITS CURRENT DIRECTORS AND OFFICERS;

(h) ITS MOST RECENT ANNUAL REPORT, IF ANY; AND

(i) ALL FINANCIAL AUDITS OR REVIEWS CONDUCTED PURSUANT TO
SECTION 38-33.3-303 (4) (b) DURING THE IMMEDIATELY PRECEDING THREE
YEARS.

(6) THIS SECTION SHALL NOT BE CONSTRUED TO AFFECT:

(a) THE RIGHT OF A UNIT OWNER TO INSPECT RECORDS:

(I) UNDER CORPORATION STATUTES GOVERNING THE INSPECTION
OF LISTS OF SHAREHOLDERS OR MEMBERS PRIOR TO AN ANNUAL MEETING;
OR

(II) IF THE UNIT OWNER IS IN LITIGATION WITH THE ASSOCIATION,
TO THE SAME EXTENT AS ANY OTHER LITIGANT; OR

(b) THE POWER OF A COURT, INDEPENDENTLY OF THIS ARTICLE, TO
COMPEL THE PRODUCTION OF ASSOCIATION RECORDS FOR EXAMINATION
ON PROOF BY A UNIT OWNER OF PROPER PURPOSE.

(7) THIS SECTION SHALL NOT BE CONSTRUED TO INVALIDATE ANY
PROVISION OF THE DECLARATION, BYLAWS, THE CORPORATE LAW UNDER
WHICH THE ASSOCIATION IS ORGANIZED, OR OTHER DOCUMENTS THAT
MORE BROADLY DEFINES RECORDS OF THE ASSOCIATION THAT ARE
SUBJECT TO INSPECTION AND COPYING BY UNIT OWNERS, OR THAT GRANTS
UNIT OWNERS FREER ACCESS TO SUCH RECORDS.

SECTION 14. Article 35.7 of title 38, Colorado Revised Statutes,
is amended BY THE ADDITION OF A NEW SECTION to read:

38-35.7-102. Disclosure - common interest community -
assessments and other charges. (1) EVERY CONTRACT FOR THE
PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY IN A COMMON
INTEREST COMMUNITY SHALL COMPLY WITH SECTION 38-33.3-223 AND
SHALL CONTAIN A DISCLOSURE STATEMENT IN BOLD-FACED TYPE THAT IS
CLEARLY LEGIBLE AND IN SUBSTANTIALLY THE FOLLOWING FORM:

"I HEREBY ACKNOWLEDGE THAT THE
DECLARATION, BYLAWS, AND RULES OF THE
HOMEOWNERS' ASSOCIATION OF THE [NAME
OF COMMON INTEREST COMMUNITY], IN
WHICH MY NEW HOME IS LOCATED,
CONSTITUTE A CONTRACT BETWEEN THE
ASSOCIATION AND ME (THE PURCHASER). BY
SIGNING THIS STATEMENT, I ACKNOWLEDGE
THAT I HAVE READ AND UNDERSTAND THE
ASSOCIATION'S CONTRACT WITH ME (THE
PURCHASER). I ALSO UNDERSTAND THAT BY
ACCEPTING THIS CONTRACT, I AM
RESPONSIBLE FOR PAYING ASSESSMENTS TO
THE ASSOCIATION. IF I DO NOT PAY THESE
ASSESSMENTS, THE ASSOCIATION COULD
PLACE A LIEN ON MY HOME AND POSSIBLY
SELL IT TO COLLECT THE DEBT."

(2) THE OBLIGATION TO PROVIDE THE INFORMATION REQUIRED BY
SECTION 38-33.3-223 AND THE DISCLOSURE STATEMENT SET FORTH IN
SUBSECTION (1) OF THIS SECTION SHALL BE UPON THE SELLER, AND, IN THE
EVENT OF THE FAILURE BY THE SELLER TO PROVIDE SUCH INFORMATION
AND DISCLOSURE STATEMENT, THE PURCHASER SHALL HAVE A CLAIM FOR
RELIEF AGAINST THE SELLER FOR ALL DAMAGES TO THE PURCHASER
RESULTING FROM SUCH FAILURE PLUS COURT COSTS.

SECTION 15. 10-4-110.8 (3) and (4), Colorado Revised Statutes, are amended to read:

10-4-110.8. Homeowner's insurance - prohibited practices - definitions. (3) For the purposes of this section, unless the context otherwise requires:

(a) "Claim" includes a demand for payment of a benefit by the insured, the payment of a covered benefit by an insurer, a loss reserve established by the insurer, a loss adjustment expense incurred by the insurer, or a payment made to the insured.

(b) "INQUIRY" MEANS A REQUEST FOR INFORMATION REGARDING THE TERMS, CONDITIONS, OR COVERAGES AFFORDED UNDER AN INSURANCE CONTRACT.

(4) (a) For the purposes of this section, "inquiry" means a request for information regarding the terms, conditions, or coverages afforded under an insurance contract. EVERY INSURER ISSUING A POLICY OF HOMEOWNER’S INSURANCE SHALL COMPLY WITH SECTION 10-3-1104 (1) (H) AND ALL OTHER PROVISIONS OF PART 11 OF ARTICLE 3 OF THIS TITLE.

SECTION 16. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.