

Colorado Legislative Council Staff
STATE
FISCAL IMPACT

Drafting Number: LLS 05-0134
Prime Sponsor(s): Sen. Hagedorn
 Rep. Carroll M.

Date: January 24, 2005
Bill Status: Senate State Affairs
Fiscal Analyst: Steve Tammeus (303-866-2756)

TITLE: CONCERNING INCREASED PROTECTION FOR HOMEOWNERS.

Fiscal Impact Summary	FY 2005/2006	FY 2006/2007
State Revenues General Fund		
State Expenditures General Fund	Potential Increase	Potential Increase
FTE Position Change	0.0 FTE	0.0 FTE
Other State Impact: None		
Effective Date: Upon signature of the Governor.		
Appropriation Summary for FY 2005/2006: None		
Local Government Impact: None		

Summary of Legislation

This bill states that any restrictive covenant that prohibits or limits xeriscape, prohibits the use of drought-tolerant vegetative landscapes, or requires cultivated vegetation to include turf grass shall be void and unenforceable.

The bill revises the Colorado Common Interest Ownership Act by specifying certain prohibitions and requirements for a homeowners' association. Major provisions of the bill include:

- limitations and conditions for the regulation of flags and political signs;
- conditions for the regulation of vehicle parking;
- that any provisions of the association's declaration that purport to waive the unit owner's homestead rights in the event of foreclosure are void and unenforceable;
- requirements to disclose the association's management company and notice of the initial date of recording of the declaration;
- requirements for disclosure of unpaid assessments;
- requirements for disclosure of current financial and legal records to a unit buyer;
- requirements for an annual audit by a certified public accountant;
- requirements for open meetings and homeowner participation;
- requirements for declaration of conflict of interest on behalf of members of the board of directors;

- the requirement that every contract for the purchase and sale of residential property in a common interest community comply with the requirements for disclosure and contain a prescribed disclosure statement;
- the authority for the purchaser to have a claim for damages and court costs against the seller for not providing disclosure information;
- prohibition of the use of foreclosure to enforce a lien for unpaid fines, attorney fees, late fees, collection expenses, or other charges; and
- provisions regarding claims for personal injury.

State Expenditures

Judicial. This bill creates a new civil cause of action for the purchasers or sellers of a unit who are damaged due to the unit owner or the homeowners' association not disclosing required information, including recovery of reasonable attorney fees. This bill will create additional cases filed in district or county courts, and will increase the number of hearings in these cases to determine reasonable attorney fees. The amount of damages claimed will determine whether the case is filed in district or county court.

The bill creates a new civil cause of action for unit owners to sue the homeowners' association to restrain or enjoin corporate action by the association without first obtaining the support of a specified number or percentage of homeowners. The number of new cases filed as a result of this cause of action is anticipated to be minimal. Any associated costs may be absorbed within existing budgetary resources.

The bill creates a new civil cause of action by allowing an insurance carrier to pursue a subrogation claim against a third party after making a settlement for injury or damages that occurred on or to the owner's property. The claim may be filed in district or county court, settled before a mediator, or resolved before an administrative law judge depending upon whether the claim is filed against another insurance carrier or an individual. If the claim against the third party is successful, the third party will be liable to the owner's insurance carrier for the amount of the settlement, collection expenses, costs, and attorney fees.

For these new causes of action, the Judicial Department will be able to absorb the costs of up to 40 new cases in district court and up to 300 new cases in county court. Any cases above these limits will require additional budgetary resources.

State Appropriations

No new state appropriations will be required for FY 2005-06.

Departments Contacted

Judicial

Local Affairs

Regulatory Agencies